

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

THE HON. JUDGE ANDRÉ BIROTTE JR., JUDGE PRESIDING

THUNDER STUDIOS, INC.;)
RODRIC DAVID,)
)
PlaintiffS,)
)
vs.) NO. 17-CV-00871-AB
)
CHARIF KAZAL; TONY KAZAL;)
ADAM KAZAL; AND DOES 1 to 100,)
INCLUSIVE,)
)
Defendants.)
)

JURY TRIAL - DAY 1
(1:20 p.m. to 4:50 p.m.)
Los Angeles, California
Tuesday, December 4, 2018

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1 Los Angeles, California; Tuesday, December 4, 2018;

2 1:20 p.m.

3 -o0o-

4 THE COURT: So I understand there's an issue
5 before opening.

6 What is the issue?

7 MR. WIENER: The issue is that --

8 I apologize. I thought --

9 THE COURT: Not a good sign when the client tells
10 you what to do, but that's another story.

11 MR. WIENER: And I apologize, Your Honor.

12 The issue is that the defendants have put together
13 approximately a 15-page PowerPoint presentation that was not
14 disclosed to plaintiffs until today, and it includes a
15 number of illustrations that are not part of any evidence
16 where -- just stock photos from a website; nor was the
17 content disclosed in any manner prior to today.

18 THE COURT: Okay. Can I see -- let me see this
19 exhibit or this demonstrative, and let's try to drill down
20 as to what are the objectionable pieces to it.

21 All right. So, Mr. Wiener, can you tell me, first
22 off, or tell me what slides do you have the significant
23 objections to?

24 MR. WIENER: Your Honor, the statement about what
25 is the case about. I suppose the defendants are allowed to

1 advance the statement about what the case is about but
2 certainly putting it under a magnifying glass, a picture of
3 reputation is -- you know, it's simply not evidence in the
4 case.

5 There is a timeline that certainly is one entry,
6 and it just serves to promote confusion. It is incomplete.

7 On the next -- two pages over, there's a picture
8 of Kazalfamilystory.com, and it shows a link to a WordPress
9 website. There's no testimony or evidence as to how the
10 website was created.

11 So the reference to WordPress is misleading. The
12 graphic is problematic.

13 On the next page says pictures of iphones.
14 There's no testimony or evidence whether iphones were
15 actually used for creating any of the harassing e-mails or
16 texts.

17 On the next page, it's literally an inflammatory
18 photograph of a match lighting other matches with heads on
19 them. I don't know if it's meant to suggest violence or the
20 incendiary nature of the alleged statements but, again, it's
21 just a misleading graphic.

22 Then, there's a page that lists protestors hired
23 by Adam Kazal in October 2016. Again, that's incomplete.
24 There was certainly harassment activities also ongoing
25 before that date and into November 2016. There will be

1 testimony in evidence that they did continue through that
2 date.

3 On the next page, there's what purports to be
4 Rodric David walking towards protestors waving -- spelled
5 incorrectly, w-a-i-v-i-n-g -- and applauding, giving them a
6 thumbs up. The picture simply doesn't reflect its content
7 accurately. Mr. David can testify as to -- there is a video
8 depicting that event.

9 THE COURT: And is that video coming in during the
10 trial?

11 MR. WIENER: It is one of the exhibits and can be
12 introduced by the plaintiffs or defendants if they elect.

13 THE COURT: Okay.

14 MR. WIENER: Finally, on the final page, police
15 are called out and take no action. They did generate police
16 reports. I don't know if the graphic is an actual police --
17 I don't believe it is. I believe again it's a stock photo
18 of a police car. There is no evidence that this was the
19 actual -- the specific police vehicle had any involvement in
20 it.

21 THE COURT: All right. Look, as I said earlier,
22 opening statements, closing arguments are not evidence, so
23 that as a backdrop.

24 Reputation -- I don't see that as particularly
25 prejudicial.

1 Arguably, the one -- the slide with WordPress --
2 I'm not sure if WordPress is an issue here, so I'm not sure
3 what the prejudice would be.

4 The Kazalfamilytruth -- I think there's some
5 problems with that graphic. I'm not sure what the purpose
6 of that graphic is, but I see your point with respect to
7 that.

8 The walking towards the protestors -- I'm not sure
9 if the video is going to be shown or not, but clearly this
10 screenshot doesn't depict what is stated earlier -- what is
11 stated above. So that seems to be problematic.

12 And having an LAPD police vehicle come out -- I'm
13 sorry, a picture of an LAPD car, I don't think that is
14 overly prejudicial.

15 Having said all that, I guess I'll turn to
16 Mr. Taylor to inquire: Why wasn't this shared with the
17 defense before the trial?

18 MR. TAYLOR: The PowerPoint was only recently
19 created, Your Honor. As Your Honor knows preparing for
20 trial, decisions are made, strategy changes, and we decided
21 sort of at the last minute to create the PowerPoint.

22 THE COURT: Let me probe further, then.

23 When was the Powerpoint created?

24 MR. TAYLOR: I mean, I finished it last night so I
25 know when it was finished. When did we start on it? I

1 can't say for sure. It's certainly in the last week.

2 THE COURT: When did you give this to the
3 plaintiff?

4 MR. TAYLOR: I gave it to them this morning
5 because it was only finished last night.

6 THE COURT: It seems a little bit problematic,
7 I'll tell you, Mr. Taylor, because I know you inquired
8 specifically of the Court's preference with regard to
9 sharing the Powerpoint. And I don't know if it fits within
10 the spirit of the Court's intention when you share it
11 because you completed it the night before trial -- when
12 certainly there was an intention to use a PowerPoint -- and
13 the plaintiff for the first time sees the PowerPoint on the
14 day of trial. So I'm not wild about it at all.

15 So let me ask more specifically, what's your
16 intent -- what's the purpose of these graphics? The most
17 specific one is Kazalfamilytruth with matches that appear to
18 be the shapes of heads.

19 MR. TAYLOR: We can certainly take out the
20 graphic, Your Honor.

21 THE COURT: Let's do that, please.

22 WordPress and the Kazalfamilystory. Is that just
23 having a computer image and that's just --

24 MR. TAYLOR: It's a stock image of a computer. We
25 can take it out.

1 THE COURT: All right. Let's take that out.

2 And what about this screenshot, if you will, of
3 Rodric David?

4 Are you intending on playing a video during the
5 opening?

6 MR. TAYLOR: Yes, it's a 20-second clip or so of a
7 video that was produced in discovery.

8 THE COURT: And does the video -- well, is this
9 video going to be introduced into evidence?

10 MR. TAYLOR: It will be, yes.

11 THE COURT: Through what witness?

12 MR. TAYLOR: Through Mr. Woodward who produced it.

13 THE COURT: Okay. So you intend on playing this
14 video during the opening?

15 MR. TAYLOR: This 20-second clip of it, yeah. It
16 looks like a screenshot because, obviously, it's a PDF that
17 you're looking at, a printout, but it's a very brief video.

18 THE COURT: And then how long -- you said what you
19 intend to play in opening is 20 seconds?

20 MR. TAYLOR: Yes. The clip that's reflected on
21 this slide is 20 seconds, or 30, at the most.

22 THE COURT: What do you intend to introduce into
23 evidence? How long is that video?

24 MR. TAYLOR: That video -- the clip that this
25 video's taken from is about, I think, it's a minute -- it's

1 not a long video. A minute.

2 THE COURT: I just want to make sure that we're
3 not playing 30 seconds of a ten-minute video that we're
4 going to have to suffer through with this trial?

5 MR. TAYLOR: No. It's a very short video.

6 THE COURT: And, then, the police car, on the last
7 slide, is that just a stock LAPD photo that you found on the
8 Internet, or is it the actual vehicle that showed up on the
9 scene?

10 MR. TAYLOR: No, it's a stock photo. We can take
11 it out if it's a problem, but that's what LAPD cars look
12 like.

13 THE COURT: Some do, right.

14 MR. TAYLOR: Some are SUVs, I guess.

15 THE COURT: Right. Right. No, I worked there for
16 a number of years so I have a sense of what -- their fleet.
17 Let's take that out in the abundance of caution.

18 Look, over plaintiffs' objection, I'm going to
19 allow the PowerPoint to be introduced with the edits that
20 I've requested, but let's try to avoid any further surprises
21 in this trial, Mr. Taylor, please.

22 MR. TAYLOR: Understood, Your Honor. Thank you.

23 THE COURT: Let's please bring in the jury and
24 begin with our opening statements.

25 (Pause in proceedings.)

1 (Jury in.)

2 THE COURT: All right. Ladies and gentlemen,
3 welcome back.

4 As promised, we are going to begin now with
5 opening statement.

6 Counsel, do you wish to make an opening statement
7 at this time?

8 MR. WIENER: Yes, Your Honor.

9 THE COURT: All right. You may proceed.

10

11 OPENING STATEMENTS

12 MR. WIENER: Good afternoon, Your Honor, jurors.
13 My name is Seth Wiener. My co-counsel, Steve Gebelin, and I
14 will be trying this case for plaintiffs Thunder Studios,
15 Inc., and its chief executive officer, Rodric David, who is
16 sitting right there.

17 This lawsuit brought by the plaintiffs to recover
18 damages caused by the defendants, who are Charif Kazal,
19 Tony Kazal and Adam Kazal, by reason of infringement of
20 Thunder Studios' copyrighted photographs and stalking and
21 harassing Mr. David and his family.

22 Mr. David is an Australian-born businessman and
23 entrepreneur. He previously owned a business venture based
24 in the United Arab Emirates with the Kazals.

25 Currently Mr. David is the president and chief

1 executive officer of Thunder Studios, which is a film
2 production studio, an integrative multi-media company based
3 in Long Beach, California.

4 Charif Kazal, Adam Kazal, and Tony Kazal who I'll
5 often refer to them by their first names, not out of
6 disrespect but just to avoid confusion between them, are
7 members of the Kazal family, which includes five more Kazal
8 brothers. They are a family of Lebanese-born Australians.
9 They are featured in numerous articles in Australia that
10 report about their shady business dealings, ties to
11 Government corruption, extortion, harassment, false criminal
12 complaints, forgery, criminal contempt of court and willful
13 disregard for the law.

14 MR. TAYLOR: Your Honor, I have to object to this
15 argument. Mischaracterizes --

16 THE COURT: Overruled.

17 You may proceed.

18 MR. WIENER: These articles, which will be
19 introduced by both sides, also link the Kazals to Hezbollah,
20 which is a terror organization, and the Libyan regime of
21 Muammar al-Qaddafi.

22 Before bringing -- discussing the events that
23 bring us here today, I'll provide you some very brief
24 background about the parties' dealings.

25 In 2007, Mr. David was approached by Charif Kazal

1 and other members of the Kazal family about starting a
2 business in the United Arab Emirates for a housing complex.
3 They eventually entered into a deal where he and the Kazals
4 would co-own a company called Emergent Capital which was
5 going to be incorporated in the Cayman Islands.

6 Mr. David then moved from his homeland, Sydney,
7 Australia, to the United Arab Emirates to oversee this
8 company, Emergent Capital, and its investment in various
9 business projects.

10 Mr. David invested several million dollars in this
11 business venture and the Kazals didn't put any money into
12 Emergent Capital. Instead what the Kazals did is they
13 loaned \$600,000 to a company called Global Renewables
14 Limited which was a waste recycling business that had been
15 purchased by Emergent Capital.

16 Through 2009, the Kazals were still refusing to
17 put any money into Emergent Capital and Charif Kazal was
18 demanding that Mr. David pay him several million dollars to
19 make everything go away. Mr. David refused to pay off
20 Charif Kazal and instead sought to protect his investment
21 against the Kazals' ongoing refusal to pay their share into
22 the business.

23 In retaliation, in 2010, Charif Kazal made a
24 criminal complaint against Mr. David in the United Arab
25 Emirates falsely alleging that Mr. David had embezzled

1 \$939,000 from Emergent Capital, a company that Mr. David had
2 alone funded.

3 So essentially it was being claimed that Mr. David
4 embezzled money from his own company. Eventually the United
5 Emirates court ruled that none of these criminal allegations
6 against Mr. David were true.

7 In making this conclusion, the United Arab
8 Emirates court found that Charif Kazal cannot be accepted as
9 a reliable or truthful witness.

10 Around the same time that these criminal charges
11 were being brought by Charif Kazal against Mr. David,
12 Tony Kazal also lodged an immigration complaint with the
13 United Arab Emirates immigration officials claiming that
14 Mr. David had absconded from his employment and was in
15 violation of a work visa. In fact, there was no such
16 violation by Mr. David. He had been in constant contact
17 with the Kazals and the complaint stemmed from his refusal
18 to hand over his visa to them.

19 The Kazals then moved forward with a plan against
20 Mr. David to end their joint venture in the Emergent Capital
21 business and take all the assets for themselves. This
22 resulted in litigation in the Cayman Islands which did
23 eventually result in dissolution of Global Renewables and
24 the distribution of its assets.

25 Shortly after the Cayman Islands proceeding,

1 Mr. David also became involved in an Australia, New South
2 Wales, Independent Commission Against Corruption
3 investigation that was being conducted against Charif Kazal.
4 Mr. David did not initiate that proceeding, but it resulted
5 in findings that Mr. Charif Kazal had engaged in corruption
6 and committed perjury.

7 During that investigation, the Kazals used
8 intimidation, harassment techniques against Mr. David, his
9 family, his associates. We'll present evidence that it
10 became necessary for Mr. David's elderly father to obtain a
11 violence restraining order against Adam Kazal, one of the
12 defendants in the case. The harassment never ceased.

13 In order to get away from it, Mr. David moved his
14 family here to California and kept a low profile hoping to
15 avoid further harassment. Unfortunately, it didn't work,
16 and that's what brings us here today.

17 The first claim that is being presented is for
18 copyright infringement, and I'll ask my co-counsel,
19 Mr. Gebelin to show you -- it will be introduced as
20 evidence, an exemplar of the copyright infringement that was
21 taking place.

22 Over an 18-month period, the Kazals sent daily
23 e-mails to Mr. David and his staff at Thunder Studios with
24 the used photographs of Mr. David and imposed -- these were
25 photographs straight from Thunder Studios' website and

1 imposed derogatory statements. For example, this one is
2 "The Corporate Thief." And this was sent in an effort to
3 harass Mr. David and embarrass him in front of his
4 professional colleagues.

5 In publishing these photographs, the Kazals
6 obviously never obtained authorization or consent from
7 Thunder Studios to use the photographs, and they ignored
8 numerous take-down requests that were lawfully made by the
9 plaintiff, Thunder Studios, to remove these photos.

10 Rather than take them down, what the Kazals did
11 is -- their website that was hosting these,
12 Kazalfamilystory.com, was originally hosted on GoDaddy.com.
13 When GoDaddy refused to host the website anymore due to the
14 copyright infringement, the Kazals then moved the website to
15 a different hosting called Orange website that's based in
16 Iceland and which states that it doesn't comply with
17 United States copyright law.

18 At least 13 photographs of Thunder Studios were
19 infringed in this matter, and Thunder Studios is seeking
20 damages of \$150,000 for each of the intentional infringed
21 photographs.

22 The defendants may claim that the infringement was
23 not intentional, but in doing so they disregard the fact
24 that the takedown notices were specifically sent to them
25 regarding the photographs and they willfully chose not to

1 comply with them. Instead, sought to evade the law by
2 transferring the hosting of the website.

3 MR. TAYLOR: Object to argument, Your Honor.

4 THE COURT: Overruled.

5 MR. WIENER: The e-mails which I've shown you also
6 form part of the basis for the stalking claim that's being
7 brought by Mr. David against the Kazals. It's important to
8 remember that this wasn't just a couple of e-mails. This
9 was -- the e-mail that has been shown to you is labeled:
10 "E-mail 163." That means that's 163 e-mails from
11 Charif Kazal alone.

12 Tony Kazal was also sending a number of e-mails,
13 and Adam Kazal was also publishing links to the website
14 where these e-mails were posted.

15 The e-mails contained a number of horrible
16 statements about Mr. David. They accused him of having
17 committed despicable crimes and made desperate lies and
18 malicious threats.

19 Concurrently, part way into this e-mail campaign,
20 the Kazals decided to escalate their stalking.

21 In Sydney, Australia, where Mr. David originally
22 resided, though he now lived in California at that point,
23 the defendants began what they called a poster and pole
24 campaign where they placed 15,000 posters on the streets of
25 Sydney and deposited 30,000 flyers in mailboxes in the

1 community where Mr. David's family resided. They accused
2 him of being a criminal. They also drove vans through the
3 neighborhood doing the same thing.

4 Mr. David obtained a restraining order from the
5 federal court of Australia prohibiting these activities.
6 Charif Kazal was found in civil contempt of court.
7 Defendant Adam Kazal, also violated the restraining order,
8 was sentenced to 33 months in prison.

9 The judge had mentioned earlier about street
10 justice. This was a case where the defendants had contempt
11 for the law and decided to take the law into their own
12 hands.

13 While this was going on in Australia, the
14 defendants decided to take the fight to Mr. David here in
15 California. They drove vans through his neighborhood and
16 his children's school. And I'll ask my co-counsel to show
17 you a brief video of the vans. It's about one minute in
18 length.

19 (Video displayed.)

20 MR. WIENER: And the reference you see,
21 www.kazalfamilystory.com, is the website that was hosted and
22 owned by the defendants. These activities continued for
23 about three weeks. In October and November, there was a
24 restraining order from the federal court of Australia and
25 that didn't put an immediate end to it, but the activities

1 did stop about a week after the restraining order issued.

2 Prior to stopping these activities, Adam Kazal
3 sent threats to Rodric David telling him his team was going
4 to expose Rodric wherever he goes, and that he would
5 continue these extortionate activities unless he was paid
6 the amount of \$666,666.66. We'll present the e-mail where
7 that threat was made.

8 As you can all imagine, being the father of
9 children, Mr. David was both concerned for his own safety
10 given the clear escalation of the activities and the fact
11 that the defendants had located where he lived and didn't
12 have any remorse about stalking him. He was concerned and
13 he and his wife will testify about the adverse effects both
14 on their health and, more importantly, in their minds, their
15 children's well being.

16 Based on this evidence which will be presented,
17 more evidence, we're confident the jury will find in favor
18 of Mr. David both on the -- in favor of Thunder Studios on
19 the copyright infringement claim and Mr. David on the
20 stalking claim. The undisputed evidence will show that the
21 defendants placed Mr. David and his family under
22 surveillance with the intent of harassing them and caused
23 them to reasonably fear for their safety, and they
24 reasonably believed there's a credible threat to their
25 safety.

1 What augmented this threat and will become readily
2 apparent is that the defendants would not cease this contact
3 even when ordered to do so by the police department and by
4 courts. They simply had no willingness to comply with the
5 law.

6 It's imperative that the jury send a message to
7 the defendants that their illegal conduct won't be tolerated
8 and award damages to Mr. David and Thunder Studios to
9 compensate them for the harm they suffered and also to
10 hopefully deter the Kazals from repeating similar conduct in
11 the future. Thank you.

12 THE COURT: All right. Thank you, Counsel.

13 Mr. Taylor, do you wish to make an opening
14 statement at this time?

15 MR. TAYLOR: Yes, I do, Your Honor.

16 THE COURT: All right. You may proceed.

17 MR. TAYLOR: Thank you.

18 Does it appear?

19 THE COURT: It does appear.

20 MR. TAYLOR: Very good.

21 Thank you, Your Honor. Thank you, ladies and
22 gentlemen. I want to briefly introduce myself and explain
23 to you what this case is about from the defendants'
24 perspective.

25 My name is Benjamin Taylor, and I, along with my

1 associate, Diane, are the attorneys for the defendants in
2 this case Charif Kazal, Adam Kazal and Tony Kazal.

3 Mr. Charif Kazal is here present in court with us, and he's
4 flown in from Sydney, Australia, to be here with us today.

5 Now, as you've probably discerned from the opening
6 statement by my colleague, this case involves a relationship
7 that goes back between these parties for over a decade.
8 This case, this lawsuit which is only about copyright
9 infringement as you've heard and about alleged stalking here
10 in California is actually a small piece in a much larger
11 dispute between these parties that goes back at least eight
12 years in terms of litigation, lawsuits between them, and has
13 actually spanned the globe, from the Cayman Islands where
14 the lawsuit about the ownership of Emergent Capital which
15 you heard about from my colleague a amount ago took place to
16 lawsuits in Australia, including two which are still
17 pending, to this lawsuit here in the United States.

18 So what is this case about from our perspective?
19 This case is about -- and you'll hear a lot of evidence
20 about this. It's about the Kazals' efforts to reclaim their
21 names and their reputations, and I'll tell you more what I
22 mean by that in a moment.

23 Now, as you've heard -- and you'll hear the name
24 Emergent Capital throughout. About ten years ago, after
25 being introduced, the Kazals, Charif and Tony on the one

1 hand, and Mr. David on the other hand, through entities they
2 owned formed a new joint venture called Emergent Capital.
3 The purpose of which was to explore and develop business
4 opportunities in the United Arab Emirates.

5 Things were going well; development was happening.
6 Mr. David, as you heard, contributed a certain amount of
7 capital, Mr. Kazal and his company contributed a loan of
8 personal guaranties and worked their contacts in the Middle
9 East and things were happening to bring these projects to
10 fruition. When, as the Kazals later learned in 2009,
11 Mr. David began implementing his plan to remove the Kazals
12 entirely not only from the leadership of the company on the
13 board of directors, but also as shareholders and owners of
14 the company as well.

15 In early 2010, there were two board of directors
16 meetings called of Emergent Capital, and you'll hear about
17 this from Mr. Kazal as well, which neither he nor his
18 brother Tony could attend, given the short notice. And
19 Mr. David, in those meetings, and an ally of his on the
20 board of directors, voted to first dilute the ownership of
21 the Kazals' company in Emergent Capital down from 50 percent
22 to less than 1 percent, and then subsequently to oust Charif
23 and Tony altogether from the board of directors.

24 Well, needless to say, the Kazals were not happy
25 about this development. And very shortly thereafter, in mid

1 2010, filed a lawsuit in the Cayman Islands to undo what had
2 been done.

3 Around that same time, in mid 2010, in the context
4 of correspondence back and forth between his lawyer and
5 Mr. David's lawyer, Mr. Kazal learned in a letter from the
6 lawyer for Mr. David that there was some pending
7 governmental inquiry into him into alleged corruption. This
8 was news to him. He didn't know anything about it, and it
9 certainly didn't make sense because he's not a government
10 official and the whole purpose of this independent
11 commission in the state they live in Australia, New South
12 Wales, is to investigate corruption by public officials.

13 Well, as the inquiry became public in 2011,
14 Mr. David was the star witness during that inquiry. And
15 although it took six years after the inspector of ICAC --
16 we'll use that acronym throughout the -- Independent
17 Commission Against Corruption -- eventually concluded in
18 2017, in a lengthy public report, Mr. Kazal,
19 Mr. Charif Kazal, was cleared of any wrongdoing. And,
20 importantly, he was never charged with any crime by the
21 public prosecutor in New South Wales precisely because he
22 had done nothing wrong.

23 Now, around the same time, as he learned of this
24 pending inquiry from Mr. David's lawyer, he didn't have any
25 understanding of how Mr. David's lawyer would know about it

1 before his own lawyer would know about it, but a series of
2 news article began to appear in the Sydney Morning Herald,
3 starting in 2010, a very large widely circulated paper in
4 Australia, containing a lot of negative things about
5 Mr. Kazal; containing photographs that the paper had somehow
6 obtained. In short, a series of articles which cast him in
7 a very negative light. And not only him but members of his
8 family as well.

9 Well, as he later learned, Mr. David, shortly
10 after removing the Kazals from their joint company and
11 removing them as directors of the company, he gets sued for
12 what he did and starts feeding information to the media,
13 negative information about the Kazals.

14 Now, understandably, Mr. Kazal was very frustrated
15 by this governmental inquiry and all the negative publicity
16 that came along with it and, of course, by these negative
17 stories that were appearing in the Herald; but I think he
18 would tell you -- he'd probably be the first to admit that
19 he's not the most technologically savvy person on the
20 planet, and he also doesn't have access to reporters who
21 will publish stories that he tells them. So he was feeling
22 frustrated by the lack of ability to get his side of the
23 story out. People were calling him, people were asking
24 what's going on, and he didn't -- he didn't have a great way
25 to get his story out to the public in a meaningful way.

1 And in conversations with a friend of his named
2 Joe Dabab -- that's a name that you'll hear probably
3 throughout the testimony in this case -- the idea was borne
4 to create a website, the website that eventually became
5 Kazalfamilystory.com, whereby Mr. Kazal could get his side
6 of the story out in the public. So that when people asked
7 him what was going on when he heard misinformation being
8 shared about him, he could direct people to the website so
9 they could at least see something else besides the
10 maliciously false articles that were appearing about him
11 online and that people were finding when they Googled his
12 name.

13 And so in 2013, the domain Kazalfamilystory.com
14 was registered by Mr. Dabab. Mr. Dabab is an I.T.
15 professional, and he works in computers. And he offered, as
16 a friend, to help Mr. Kazal get his story out there. It was
17 a very simple blog-style website which Mr. Kazal would not
18 have had any idea of how to create, but Mr. Dabab offered to
19 do as a favor to a friend of his.

20 And we'll see some images from the website, but
21 what the website consisted of primarily was e-mails from
22 Mr. Kazal to the journalist at the Herald who was publishing
23 these articles and significantly to Mr. David, with a cc to
24 other employees, to his coworkers and employees at
25 Thunder Studios.

1 Now, the way the website worked was that Mr. Dabab
2 actually created the site, registered the domain, renewed
3 the domain, created the layout and decided what photos would
4 appear on the site. And Mr. Kazal, for his part, being
5 primarily concerned about the content, the words that
6 appeared on the site reached the public, was the one who was
7 authoring what eventually appeared on the site. His
8 concern, of course, was not the way the site looked, but
9 what was written on the site. That was what Mr. Kazal was
10 interested in and what he contributed to the website.

11 Now, in 2013 and 2014, as the website was being
12 created by Mr. Dabab, Charif did what a lot of people do
13 when they want to find a picture of someone. He Googled --
14 Google-image searched Rodric David and actually he found
15 many, many photos online. He sent a few links to Mr. Dabab
16 by e-mail in 2013, links to these photographs that were
17 contained on different websites online.

18 Now, Mr. Kazal will testify, and we'll see as well
19 among the documents that we look at as evidence that these
20 photographs did not contain any indication that they were
21 copyrighted. And being a lay person, Mr. Kazal assumed,
22 like I think many people do, that images that are available
23 through public searches, through Google that are available
24 in the public domain are available to be used, to be viewed
25 and to be sent around.

1 Now, Mr. Kazal, for his part was not involved in
2 the ultimate decision about whether to include any certain
3 photograph, where any certain photograph would go, what the
4 the website ultimately looked like and what it contained in
5 terms of the visual display. Again, that wasn't important
6 to him. What was important were the words that appeared on
7 the page. One thing he does know from visiting the site
8 throughout is that the photographs remain largely unchanged.
9 And from 2015 and prior, the photographs were posted to the
10 site by Mr. Dabab and remained there until the site was
11 eventually closed down in 2017.

12 Now, my colleague has repeatedly lumped the
13 defendants together: Defendants did this, defendants did
14 that, but as you'll hear throughout the testimony in this
15 case, each of the defendants against whom the claims for
16 relief sought in this lawsuit are alleged did different
17 things, one from the other.

18 Mr. Charif Kazal will acknowledge that he, along
19 with Mr. Dabab, was the one who was behind the website but
20 Charif and Tony, his brothers, had absolutely nothing to do
21 with the website whatsoever. Tony did author certain
22 e-mails that Charif had Mr. Dabab post to the site, but
23 Mr. Tony Kazal and Mr. Adam Kazal had absolutely nothing to
24 do with the creation, maintenance, oversight, development or
25 creation of the site in any way -- in any way whatsoever.

1 Now, in around early 2016, a series of websites
2 appeared online, rather out of the blue from the Kazals'
3 perspective, five websites bearing their names. Websites
4 bearing names like Kazalfamilytruth.com, Charifkazal.com,
5 Adamkazal.com, Tonykazal.com and Karlkazal.com.

6 Well, naturally when a series of websites appear
7 in your name containing content about your family,
8 especially false and defamatory content, you wonder who's
9 putting up that stuff, who's posting websites about me,
10 who's using my name without my permission.

11 So after a little bit of investigation, they found
12 that the websites were all created and registered by one
13 Matthew Price. Matthew Price at the time was none other
14 than the chief technology officer of the plaintiff in this
15 lawsuit, Thunder Studios.

16 As the Kazals later learned, not only was
17 Mr. Price creating and developing these websites, but his
18 colleague at Thunder Studio, Paul Kolesa who was and remains
19 the director of content security at Thunder Studios, as well
20 as Thunder Studios then social media manager Michael Hatch,
21 were also involved in the sites and assisted in their
22 development.

23 These websites were very simple. They contained
24 photographs of the Kazals. Photographs upon which many of
25 their faces were imposed with words like: "Criminal,"

1 "Briber," "Forger," "terrorist Supporter."

2 And here's one such image which we'll see during
3 testimony in this case. A picture of Tony Kazal, which
4 Mr. Price posted on the Kazalfamilytruth website with the
5 words "Support Hezbollah" above his head.

6 Now, as you can imagine, the public association of
7 your family name with such a reviled internationally known
8 terror organization like Hezbollah creates a lot of fear and
9 anxiety for the Kazals and a lot of angst for their own
10 well-being and their own security, not to mention the
11 defamatory nature of such an allegation.

12 Now, around the same time period starting in 2015,
13 Tony and Charif, as you heard from Mr. Wiener, sent a series
14 of e-mails to Mr. David and certain Thunder Studios
15 employees.

16 Now, the goal of these e-mails in the first
17 instance was to get Mr. David to acknowledge the wrongdoing
18 he had done and to rectify that wrongdoing. What gave rise
19 to it was the Kazals learned in 2015 that the company that
20 you heard about a moment ago, Global Renewables, which they
21 had an ownership interest in and from which they were ousted
22 of any control when the ownership changes happened in
23 Emergent Capital, later sold -- half of it sold for some
24 \$80 million. Then they realized the scope of the wrongdoing
25 and the value from which they had been deprived by what had

1 happened several years earlier.

2 So they started this e-mail campaign in the hopes
3 of convincing Mr. David to acknowledge what he had done and
4 to alert those who work with him as to who they were dealing
5 with.

6 At the same time, Mr. Kazal's goal was to get
7 Thunder Studios to take down the Kazalfamilytruth website.

8 Now, you'll hear from Mr. David himself that he
9 had his I.T. department block these e-mails, install a
10 firewall to prevent his employees from receiving these
11 e-mails from the Kazals, but he allowed himself to continue
12 to receive those e-mails, although he'll testify that he
13 only read about 20 to 30 percent of them.

14 Now, in late 2016, Adam Kazal -- again, you'll
15 hear testimony that he acted entirely on his own -- who had
16 nothing to do with the dispute between Charif and Tony on
17 the one hand and Mr. David -- hired a group of protestors
18 through a private investigator in Australia who interacted
19 with a private investigator here, who you'll also hear from,
20 to have a group of protestors, some of whom you saw in the
21 videoclip that Mr. Gebelin played, to appear in Mr. David's
22 neighborhood and to appear at Thunder Studios. The goal
23 being again to take down the Kazalfamilytruth website and
24 Adamkazal.com, both of which contained those negative and
25 defamatory statements that I referenced a moment ago.

1 Now, Mr. David, you'll see video and hear from
2 him, himself interacted with the protestors not only near
3 his home but near Thunder Studios. He walked towards the
4 protestors when he saw -- when he saw them appear outside
5 the studio for the first time, waving, applauding, giving a
6 thumbs up. He even sent an employee who you saw on that
7 videoclip as well to take pictures right in among the
8 protestors.

9 Now, Mr. David will testify that he didn't have
10 any fear for his safety when he saw the protestors in his
11 neighborhood because they seemed like Hispanic laborers who
12 didn't have any idea what they were doing, let alone
13 understand English. Here's a brief video clip of Mr. David
14 arriving the day of the protestors, the first day at Thunder
15 Studios.

16 (Video displayed.)

17 MR. TAYLOR: You'll hear testimony that the police
18 were called to the area of the house and to the studio and
19 in both instances, the LAPD at the house and the sheriff's
20 department at the studio, they confirmed that the protests
21 were lawful, they made no arrest, they did not disperse the
22 protestors, they didn't confiscate any of their signs.

23 The LAPD, in its own internal notes of the
24 incident, noted that there was no crime that had taken
25 place. In short, they allowed the protest to continue.

1 They allowed the vans that you saw in the video to continue
2 to circulate and they simply told the Davids to steer clear
3 and stay away. And that's what they did.

4 At the end of the day, ladies and gentlemen, after
5 you've heard from the witnesses, the parties, after you've
6 seen the videoclips that you're going to see and documents
7 that we'll share with you, we're going to ask you to find
8 that there's no liability at all on the part of the Kazals
9 for copyright infringement, there's no liability at all for
10 stalking.

11 I'm sure Mr. David didn't like having protestors
12 appear in his neighborhood, he didn't like having protestors
13 standing outside the gate of his studio, but that's not
14 unlawful stalking, ladies and gentlemen. And we'll ask you
15 to find in favor of the defense on both claims.

16 Thank you for your attention, and thank you for
17 your time.

18 THE COURT: All right. Thank you, Mr. Taylor.

19 Mr. Wiener, do you want to call your first
20 witness, please.

21 MR. WIENER: I do. And I will call Mr. David as
22 my first witness.

23 THE COURT: All right. Mr. David, please step
24 forward and be sworn.

25 ///

1 RODRIC DAVID, PLAINTIFFS' WITNESS, SWORN

2 THE CLERK: Please state and spell your name for
3 the record.

4 THE WITNESS: I'm sorry. State and --

5 THE CLERK: Spell.

6 THE WITNESS: Rodric, R-o-d-r-i-c, David,
7 D-a-v-i-d.

8 THE COURT: All right. Counsel, you may proceed.
9

10 DIRECT EXAMINATION

11 BY MR. WIENER:

12 Q Good afternoon, Mr. David.

13 Could you tell me where you were born?

14 A Sydney, Australia.

15 Q And how long did you reside in Sydney, Australia, for?

16 A Seventeen-and-a-half odd years.

17 Q Where do you currently reside?

18 A Here in Los Angeles.

19 Q And who resides with you at your home in Los Angeles?

20 A My wife and my son and daughter.

21 Q What is your wife's name?

22 A Elizabeth.

23 Q And I understand you don't want to disclose the names
24 of your children; is that --

25 A My preference, yes.

1 Q You have a son and daughter -- they're both minors; is
2 that correct?

3 A I'm sorry?

4 Q You have a minor son and a minor daughter?

5 A My daughter is now 12; my son 15.

6 Q Right. What was the name of your father?

7 A John David.

8 Q And did John David reside in Australia?

9 A Born and raised, yes, and lived there. Educated here
10 in Davis, California.

11 Q And you're currently the chief executive officer and
12 president of Thunder Studios?

13 A I am.

14 Q Can you briefly tell me what Thunder Studios is?

15 A Thunder Studios is a production services and business,
16 movie studio in Long Beach, California. We manufacture and
17 provide services to some of the most iconic commercials,
18 music videos that you would see on a day-to-day basis. We
19 do about a thousand production days a year. We manufacture
20 a large volume of digital media content and very much
21 specific at the moment to video games and e-sports, and we
22 have our own e-sports arena where we produce content about
23 four or five days a week.

24 Q How did you first come to know the Kazals?

25 A I met the Kazals through my father mid early 2006, I

1 believe, sometime around there.

2 Q Did they approach you with the idea of developing a
3 housing complex in the United Arab Emirates?

4 A They did.

5 Q What was the business plan behind that if you can
6 briefly describe it?

7 A The Kazals had a relationship with a group that owned
8 and built a labor camp for 40,000 blue-collar workers in the
9 UAE. That group was in need of some western-style
10 management that could ensure that the facility was run in
11 accordance with the regulations of housing of foreign
12 workers in lands such as the UAE

13 Q And did you eventually enter into an agreement with the
14 Kazals to form a company called Emergent Capital?

15 A Yes. In about early 2008, I entered into an agreement
16 with three brothers, Karl, Tony, and Charif, hence their
17 company named KTC, to enter into a joint venture. That
18 joint venture was to be headquartered in the UAE. It was a
19 private equity group that would make investments in the UAE
20 and elsewhere, take advantage of the tax structure of the
21 UAE, but because of corporate regulations in the UAE, the
22 incorporation had to occur actually in the Cayman Islands.
23 So the UAE was really the domicile of where we located
24 ourselves and represented in the onshore joint venture that
25 we had for this labor camp.

1 Q And did you move to the United Arab Emirates to oversee
2 this?

3 A Once the joint venture agreement was signed with the
4 local partner, I moved my family and children to the city of
5 Abu Dhabi in the UAE. I want to say that was about mid
6 2008, maybe April, May.

7 Q And did you fund Emergent Capital?

8 A I did. Emergent Capital was ultimately incorporated in
9 late 2008, I want to say about September. I have a nature
10 of being a very trusting person. Unfortunately, that can be
11 taken advantage of by unscrupulous people. That's what's
12 occurred here. On a promise of co-funding, I allowed them
13 to have their equity upfront in the company rather than have
14 it more structured that they got their equity once they put
15 their funding in.

16 Q Was one of the businesses under Emergent Capital a
17 waste management named Global Renewables Limited?

18 A There -- I don't want to make this too complicated.
19 The Cayman company was Emergent Capital, and it was
20 negotiating, I want to say, in early 2009 for the potential
21 to purchase a defunct waste business in Sydney, Australia,
22 called Global Renewables. In order to facilitate that
23 purchase, we registered a subsidiary in the Cayman Islands
24 to Emergent Capital and that was called Global Renewables
25 Limited.

1 And ultimately once our offer to purchase the
2 Australian assets was accepted by the seller, we purchased
3 those from the Cayman Island company called Global
4 Renewables Limited, and the Australian subsidiaries all
5 share that name but have different -- obviously registered
6 in Australia.

7 Q When did things begin to sour between you and the
8 Kazals?

9 A I would say mid to late 2009, when I got fed up with
10 the constant drawl of inshallah, which is an Arabic word for
11 God willing. I allowed them to lie to me for a long period
12 of time that the money was coming, and it never came. And I
13 kept putting in my money, month in, month out, and the money
14 never came.

15 And, then, by late 2009, they started refuting
16 they even had any an obligation to put any money in, that
17 they didn't agree to any of the shareholder agreements, that
18 they didn't agree with anything. They didn't agree with the
19 amounts of money that I loaned the company. I knew the
20 writing was on the wall.

21 Q Did you take any steps to protect the business against
22 the Kazals?

23 A Not protect the business. I took steps to protect my
24 investment. What do you do when you have a significant loan
25 to a company, and there's only two shareholders in that

1 company and neither shareholder is agreeing to provide any
2 more money to the company, but the company needs money?

3 So what you do is you go to your shareholders and
4 say, "Put in some money, otherwise we can't survive
5 anymore." I wasn't prepared to put any money in, unless I
6 had the equity that I was funding. So we went through a
7 process to convert my debt to equity, and that alternately
8 was the dilution that occurred in the Cayman Islands that
9 clearly infuriated the Kazals.

10 Q And did Charif, as a result, make a criminal complaint
11 against you in the United Arab Emirates?

12 A He did. He did that in May of 2010. I suspect that
13 was done because he needed to create some tenets under
14 Cayman law to have a reason to make an ex parte application
15 to seize the assets of the company without me knowing about
16 it.

17 Q What happened with that criminal complaint?

18 A He made allegations that I had embezzled money from a
19 company that I was sole funder of, which is quite strange,
20 and a company in the Cayman Islands, but he made a complaint
21 in the UAE. And let me tell you, it's scary to live in a
22 country like the UAE when someone makes an unfounded
23 complaint like that.

24 I was called out by the police and asked to come
25 to the police station for some questioning. That went for

1 about half-an-hour. The police told me they saw no merit in
2 the complaint.

3 And then they said there was also an absconding
4 complaint on my visa. And so they actually held me in that
5 police station for two days, in the jail of the police
6 station, so that they could, in essence, deport me to the
7 neighboring emirate, which is Dubai, which was where my visa
8 was actually held.

9 And then I had to present my passport to the
10 immigration authorities while they investigated the
11 absconding complaint. The absconding complaint was found
12 unfounded, and Tony Kazal, the guy who made the complaint,
13 was found -- fined for making an unlawful complaint.

14 In the criminal complaint made against me about
15 fraud, I flew back to the Cayman Island -- the UAE,
16 Abu Dhabi, at risk to my long-term detention, four times to
17 sit in an Arabic-language courtroom not knowing what was
18 going on, just defending my name. And the allegations were
19 found baseless and unfounded.

20 The allegations were investigated by a panel put
21 together by the court of accounting experts. Their finding
22 was that the general manager of the local subsidiary of our
23 joint venture was responsible for some sort of accounting
24 irregularities.

25 You will hear later on that that individual's name

1 is Andrew Kelly, and you'll hear later on that Andrew Kelly
2 has a prior relationship with Charif Kazal which predates my
3 knowledge of Charif Kazal. And that ultimately the
4 Independent Commission Against Corruption in New South Wales
5 made findings of corruption against Charif Kazal and
6 Andrew Kelly that pre dates Andrew Kelly joining the UAE
7 business, which was Charif's appointment.

8 Q You mentioned there is a lawsuit in the Cayman Islands.
9 Can you briefly tell the jury what that lawsuit was about
10 and its outcome.

11 A Yeah. So the original lawsuit was lodged, I think, in
12 around June of 2010. Again, Charif Kazal and his brothers
13 made all sorts of unfounded allegations in support of
14 whatever they were trying to do in terms of stealing assets.

15 I should tell you that my passport was held by the
16 UAE immigration people for about 40 days, so I was unable to
17 travel. Neither was my family. The coordination with the
18 UAE complaint was also then in coordination with the
19 ex parte application in the Cayman Islands -- and that means
20 the application without the other party knowing about it --
21 to wind up the company and give them control of it. So it
22 was necessary for me to -- that was done at the same time.

23 I got served while sitting in the reception area
24 of the main jail of Dubai when I was released to immigration
25 authorities. The Cayman case -- I stepped down as the

1 director as of June, and then that case processed for about
2 80 months, give or take, which required the appointment of
3 Ernst and Young as the joint official liquidators of the
4 company. The allegations were subsequently withdrawn. The
5 parties agreed to liquidate the company and sell the assets.

6 And then the parties -- myself, Kazals, others who
7 had claims against the company for debts -- were asked by
8 the official liquidators to lodge what they call "proofs of
9 debts," make your claims with supporting evidence. And at
10 the same time, because we still had this valuable asset in
11 Australia called Global Renewables -- you'll hear a lot
12 about it in this trial, I believe -- and so the Court
13 validated an order to allow me to accept offers to sell the
14 asset.

15 An offer was made by an Australian private equity
16 firm called Iron Bridge Capital. That offer was distributed
17 to the shareholders, including the Kazals, and the Kazals
18 sought to make a counteroffer for that asset. They
19 ultimately made an offer on the same terms of Iron Bridge
20 Capital.

21 I said earlier that the Kazals failed to put their
22 money in. So the term impecuniosity will come up a few
23 times today at least. They have no money. They have no
24 assets. So I didn't take with much validity an offer from
25 the Kazals that they could afford a commercial price of

1 about 25 million for the asset, and that's the net price.

2 I think the enterprise value at the time was about
3 65 million because it had about 30-odd million in
4 project-specific debt associated with the company. So the
5 net return to the shareholders on the side was about
6 25 million.

7 The offer that the Kazals made came surprisingly
8 contingent with a letter of financial support by the Libyan
9 Investment Authority. And that letter required due
10 diligence on the Kazals themselves.

11 So when I did a search at the time on the
12 signatory to the letter of offer, you would be -- you will
13 be surprised on what you hear in this trial, but the name of
14 the individual I believe is Surravanti (ph). The Google
15 search at the time showed that he was wanted by the Hague
16 for crimes against humanity. An extraordinary experience
17 over the last decade.

18 Q One final piece of this puzzle, in 2011, you became
19 involved in what my colleague referred to as the ICAC
20 investigation; is that correct?

21 A I was subpoenaed to give testimony and evidence to the
22 Independent Commission Against Corruption investigating
23 corruption between -- let me rephrase that. I should give
24 you a bit more background.

25 The Independent Commission Against Corruption is a

1 New South Wales Government statutory body created to provide
2 oversight of corrupt practices between government,
3 government officials, businesses and persons. It's not the
4 Department of Public Prosecution. It's sort of a judicial
5 branch. It's an independent one set up by the Parliament in
6 New South Wales.

7 So I was subpoenaed to provide testimony for that
8 because they were investigating irregularities in a
9 Government business called the Sydney Harbor Foreshore
10 Authority. The Sydney Harbor Foreshore Authority is a
11 Government entity that controls a lot of Government-owned
12 real estate that goes to the public to tender leases
13 periodically. The Kazals, you'll hear all about it,
14 control, through entities they have, a number of leases with
15 Government.

16 And as far as I can independently determine
17 through just doing a Google search, you'll see that both the
18 ICAC, the New South Wales Government and the Kazals have
19 been in a fairly long-term debate as to whether there is any
20 corruption with their leases dating back to at least 2009 as
21 far as I can tell.

22 Q Did you, in any way, initiate the ICAC investigation?

23 A No.

24 Q What was the outcome of the ICAC investigation?

25 A I can't tell you specifically. I can tell you

1 specifically as it pertains to Charif Kazal and Andrew
2 Kelly, the individual that was running the UAE joint
3 venture. They were both found guilty of corruption and
4 perjury is my understanding.

5 Q What was the basis for the finding of corruption?

6 A You'll have to read the report specifically, but I
7 believe it goes to corrupt practices in the tendering of
8 leases that didn't go out to public tender.

9 So Andrew Kelly, the individual we talked about
10 that supported Charif's allegations against me in the UAE
11 was a senior director of the Sydney Harbor Foreshore
12 Authority predating 2008, I believe.

13 For the record, I think there's a lot of
14 misunderstanding by the Kazals themselves --

15 THE COURT: Counsel, you need to ask a question.

16 MR. TAYLOR: I would move to strike that,
17 Your Honor.

18 THE COURT: Stricken.

19 BY MR. WIENER:

20 Q Is it sufficient to say that you believe that the ICAC
21 body in 2011 was adverse to Charif Kazal?

22 A Most definitely.

23 Q Do you know if ICAC has ever exonerated Charif Kazal
24 from the findings it made in 2011?

25 A The findings still stands. I heard in the opening

1 statement about the inspector general report. There's been
2 subsequent reports that refute that one. But if you go on
3 to the website today, the findings of the ICAC stand today.

4 Q Did the Kazals take any actions against you after the
5 ICAC Commission finding in 2011, in the period shortly
6 thereafter?

7 THE REPORTER: Excuse me. Could I have your
8 question again.

9 BY MR. WIENER:

10 Q Sure. Did the Kazals, any of the Kazals, take any
11 action against you in the period around 2011, 2012, after
12 the ICAC Commission made its finding?

13 A Yes. I was -- in 2011, I got a frantic phone call from
14 my wife. She was at the police station because she drove
15 straight there because she was being followed. So I met her
16 there, and then we subsequently went together to our
17 children's elementary school to pick up the kids. And that
18 car was parked at the front of our children's elementary
19 school.

20 I approached the car, I took out my phone at the
21 time to take a photo of the driver. He made some vulgar
22 comments, stole my phone, revved the engine in the street,
23 forcing me to jump on to the bonnet and he went down the
24 street with me on his car for a hundred meters until I fell
25 off with the windshield wiper in my hand. Yeah.

1 That was an individual employed by Tony Kazal is
2 my understanding. My phone was stolen, and it's my
3 understanding the Kazals have used documents and
4 communications on that phone as part of their campaign
5 against me.

6 Q Did Adam Kazal ever take any violent actions towards
7 your father?

8 MR. TAYLOR: Objection, Your Honor. Lacks
9 foundation.

10 THE COURT: What's the foundation, Counsel?

11 MR. WIENER: I'm going to introduce Exhibit
12 Number 1 which is a Provisional Order, Ex Parte, Apprehended
13 Personal Violence Order that --

14 THE COURT: Hold on one second. Let me take a
15 look at this.

16 What does that have to do with this witness?

17 THE WITNESS: My dad.

18 THE COURT: Hold on, Counsel.

19 What does that have to do with this witness?

20 MR. WIENER: The person seeking protection is
21 John David, Mr. David's father, and the order seeks --

22 THE COURT: Is Mr. David going to testify?

23 MR. WIENER: Unfortunately, Your Honor, Mr. -- the
24 elder Mr. David is deceased, so he'll not be testifying.

25 THE COURT: So this witness knows about this how?

1 MR. WIENER: Because he's one of the persons being
2 protected by the personal violence order which is issued
3 against Adam Kazal.

4 THE COURT: All right. You may proceed.

5 BY MR. WIENER:

6 Q Mr. David, I would like you to turn to Exhibit 1 in the
7 exhibit binder in front of you.

8 MR. TAYLOR: I'm sorry, Your Honor. I would
9 object that the protected person is Mr. David Senior.

10 THE COURT: Counsel, you need to approach and
11 please bring the exhibit with you, a copy of the exhibit,
12 please.

13 (Sidebar conference.)

14 THE COURT: Mr. Wiener, do you want to join us?

15 MR. WIENER: Yes.

16 THE COURT: All right. While I have you here at
17 sidebar, maybe you all do things differently, but I did not
18 anticipate this trial was going to be a witness going on for
19 hours and hours with a narrative. I thought there was going
20 to be a question and answer. If it continues, I'm going to
21 start to interpose my own objections for calling for
22 narrative, number 1.

23 Number two, this exhibit that you're talking about
24 is an exhibit that is a protection order for this witness,
25 or is it for his father?

1 MR. WIENER: It was for his father.

2 THE COURT: I thought you said earlier it was for
3 this witness.

4 How is this witness going to testify about a
5 protection order for his father?

6 MR. WIENER: He can testify about his discussions
7 with the father. The order also makes extensive
8 references --

9 THE COURT: Lower your voice, please.

10 MR. WIENER: -- to Rodric David. That this
11 harassment stemmed from Rodric David having given evidence
12 in the ICAC public hearing.

13 THE COURT: I guess, maybe I'm missing something
14 here. How is that not hearsay, any conversations between
15 this witness and his father that's referenced in a document
16 in Australia? Tell me, what am I missing here?

17 And, I guess, related to that if you could, how is
18 that relevant to the stalking claim here?

19 MR. WIENER: It's part of the pattern and conduct.
20 In looking at whether there's harassment, you can look at
21 members of the family which include his father.

22 THE COURT: All right. So, then, help me then
23 understand. Is there some exception to the hearsay rule
24 that somehow gets this document into evidence?

25 MR. WIENER: It's an official -- the parties have

1 stipulated to the authenticity of the order.

2 MR. TAYLOR: The stipulation was not without
3 reserving right to object. It is hearsay.

4 THE COURT: This is the issue that we talked about
5 this morning. There's not a meeting of the minds apparently
6 on this. It seems to me, Mr. Wiener, he can testify that my
7 father got an order of protection stemming from the
8 interaction with the Kazals, but going into all these
9 documents, I think that's a big problem. I mean, this is
10 not an order that protects this witness. I thought you said
11 earlier that it was, that's why I allowed the question to
12 continue.

13 This is an order that protects the father. He may
14 know about it. He can testify that he became aware of it,
15 and that his father got an order of protection from the
16 Kazals, but to introduce this document, I think, there's
17 some big problems because it contains a boat load of hearsay
18 of the contents contained therein. And you all don't seem
19 to agree on whether or not this document should be
20 introduced for the truth of the matter.

21 MR. WIENER: Your Honor, it actually does protect
22 John David, any person who has a domestic relationship.

23 THE COURT: Were they living together at the time
24 of this?

25 MR. WIENER: I don't believe so. I'm not

1 positive.

2 THE COURT: That's not a -- so, then, what's the
3 evidence of the domestic relationship?

4 MR. GEBELIN: Your Honor --

5 THE COURT: Can you state your name for the
6 record, please.

7 Steven Gebelin, co-counsel for plaintiffs.

8 The order also requires defendant not to engage in
9 any other conduct that intimidates the protected person.

10 THE COURT: Who's the protected person?

11 MR. GEBELIN: The protected person is John David
12 Senior, the father. Conduct that would intimidate
13 Mr. David -- intimidating family members would be conduct
14 that would intimidate Mr. David Senior, John David.

15 THE COURT: I'm confused.

16 MR. GEBELIN: Attempting to intimidate a family
17 member, such as Rodric David, the reason why this order says
18 John David was being intimidated would also fall within the
19 scope of this.

20 THE COURT: Well, look, respectfully, I'm going to
21 disagree. This witness can testify that his father got an
22 order, a protective order against the Kazals based on
23 conduct that the father had or based on conduct between him
24 and the Kazals, but this document is not going to come into
25 evidence.

1 So that's the Court's ruling on this.

2 All right. Thank you.

3 (Sidebar concluded.)

4 BY MR. WIENER:

5 Q Mr. David, it's correct that your father, John David,
6 obtained a provisional order ex parte against Adam Kazal in
7 2013?

8 A It's my understanding that it's the New South Wales
9 Police that took out the protective order for my family
10 against Adam Kazal.

11 Q And was the order to protect your father or the entire
12 family?

13 A The entire family. I mean, up until this time, my
14 father was physically assaulted, verbally harassed by more
15 than one Kazal family member. My uncle Peter, my brothers,
16 my sisters-in-laws with threats and intimidation. I think
17 the -- some of the text messages and what-have-you received
18 by my brothers and father are here.

19 Q All right. Let's turn to the copyright infringement.

20 Is Thunder Studios the owner of certain
21 copyrighted photographs?

22 A Yes, it is.

23 Q And does it display those photographs on its websites?

24 A I'm sorry?

25 Q Does it display those photographs on its website,

1 Thunderstudios.com?

2 A Yes, it does.

3 Q What was the purpose of the photographs?

4 A The -- we're a production facility and studio, right,
5 so we have to promote our work. And so it's -- as a young
6 company trying to build our resume, we take photos of me as
7 the chief executive with individuals of renown, or some of
8 the signature commercials we do, like automotive and alike,
9 and use that to promote the quality of the content that's
10 made at our studio.

11 Q I'd like you to turn to Exhibit 25 in the binder.

12 A Yeah.

13 Q Is this a true and correct copy of the terms of use on
14 Thunder Studios' website as they appeared in 2016?

15 A I believe so.

16 Q And does it, on the second page of the terms of use
17 under: "No reproduction of materials," does it say that the
18 material on this site is protected under federal and state
19 copyright and trademark laws?

20 A I believe so.

21 Q What was the purpose of providing that notification?

22 A To ensure that our ownership and copyright was
23 protected to the fullest extent we do, we can.

24 Q Did the photographs on the website have commercial
25 value to Thunder Studios?

1 A Most certainly from a reputational commercial value,
2 yes.

3 Q Did you eventually -- when did you discover these
4 photographs were being published on Kazalfamilystory.com?

5 A To the best of my recollection, it was late '16.

6 Q And did somebody at Thunder Studios file what's called
7 a Digital Millenium Copyright Act complaint with the hosting
8 company for Kazalfamilystory.com?

9 A We lodged a DMCA takedown request to GoDaddy.

10 Q Who was the person who lodged that complaint?

11 A I believe it was Mr. Kolesa.

12 Q Who is Mr. Kolesa?

13 A He's our security officer.

14 Q I'd like you to turn to Exhibit 4 in the binder.

15 Are these records produced by GoDaddy? Do they
16 reflect the communications that Mr. Kolesa had with GoDaddy
17 regarding the infringed photographs?

18 A Yes.

19 Q Do you know if the Kazals responded to this complaint
20 through their attorney?

21 A Not to us as the complainant, but it shows here that he
22 responded to GoDaddy.

23 A And how did the Kazals respond to the complaint?

24 A It's my understanding that they didn't. The DMCA
25 requires you to make a counterclaim and then go through the

1 normal lawful process of dispute on copyright infringement.
2 That's what the DMCA requires. They didn't do that. They
3 actually sought to change Internet service providers. And
4 it's my understanding, they changed that to a provider on
5 the East Coast.

6 So Paul did another DMCA take-down notice, and
7 then off the back of that they then rechanged the ISP to an
8 ISP in Iceland which claims it doesn't -- anyone who uses
9 their services are protected from U.S. and European
10 copyright laws.

11 Q I'd like you to turn to Exhibit 3 in the binder.

12 MR. WIENER: Your Honor, I'd like to move
13 Exhibit 25 into evidence.

14 THE COURT: Which exhibit?

15 MR. WIENER: 25. The terms of use of
16 Thunderstudios.com

17 THE COURT: All right. Any objection?

18 MR. TAYLOR: No objection, Your Honor.

19 THE COURT: All right. Twenty-five will be
20 admitted into evidence.

21 (Exhibit 25 received in evidence.)

22 MR. WIENER: And I'd like to move Exhibit 4 into
23 evidence, Your Honor.

24 THE COURT: Any objection?

25 MR. TAYLOR: No objection, Your Honor.

1 THE COURT: All right. Exhibit 4 will be
2 admitted.

3 (Exhibit 4 received in evidence.)

4 BY MR. WIENER:

5 Q All right. Mr. David, have you had a chance to review
6 Exhibit Number 3?

7 A I have.

8 Q And does this reflect that the Kazalfamilystory.com
9 website was transferred from GoDaddy.com to
10 Orangewebsite.com?

11 MR. TAYLOR: Objection. Lacks foundation.

12 THE COURT: If he knows, he may answer.

13 THE WITNESS: Yes.

14 BY MR. WIENER:

15 Q Is Orangewebsite.com hosted by an Icelandic company, to
16 your knowledge?

17 A I believe it is an Icelandic company.

18 Q And looking at Exhibit 3, who does it list as the
19 registrant of the website?

20 A The name is Jean Ghalo of Jeddah Beirut, Lebanon.

21 Q Do you know any person by the name Jean Ghalo?

22 A No.

23 Q Do you know why the website was registered to someone
24 named Jean Ghalo?

25 A I have no idea.

1 Q Is it possible that the name Jean Ghalo was invented by
2 the Kazals?

3 MR. TAYLOR: Calls for speculation, Your Honor.

4 THE COURT: Sustained.

5 Next question.

6 MR. WIENER: I'd like to move Exhibit 3 into
7 evidence, Your Honor.

8 THE COURT: Any objection?

9 MR. TAYLOR: No objection, Your Honor.

10 THE COURT: All right. Three will be admitted.

11 (Exhibit 3 received in evidence.)

12 BY MR. WIENER:

13 Q I'd like you to turn to Exhibit 33, Mr. David.

14 A Thirty-three. I'm sorry?

15 Q Correct. Is this the terms of service for
16 Orangewebsite.com?

17 A It is.

18 Q And based on the date in the upper left-hand corner,
19 are these the terms of service that were on the website,
20 Orange Website on March 20th, 2017?

21 A They were.

22 Q Can you read the first sentence of section two of this
23 document?

24 A (Reading) Sites hosted by Orangewebsite.com service
25 are regulated only by Icelandic law. Orangewebsite.com is

1 not in a position to investigate and validate or invalidate
2 the veracity of individual defamation claims which is why we
3 rely on the legal system and courts to determine whether or
4 not material is indeed considered defamatory. In any case
5 in which an Icelandic court order indicates material is
6 defamatory, libelous or slanderous in nature, we will comply
7 and remove or disable access to the material in question.

8 Q In December of 2016, did Thunder Studios register
9 copyrights for its photographs?

10 A Yes.

11 MR. WIENER: And, Your Honor, I'd like to move
12 Exhibit 33 into evidence.

13 THE COURT: Any objection?

14 MR. TAYLOR: No objection, Your Honor.

15 THE COURT: All right. Thirty-three will be
16 admitted.

17 (Exhibit 33 received in evidence.)

18 BY MR. WIENER:

19 Q Mr. David, can you turn to Exhibit 23?

20 A Yes.

21 Q Is this a certificate of registration number
22 VA2-024-205, dated December 9th, 2016, registered with the
23 United States Copyright Office?

24 A It is.

25 Q And does it list 67 photos that were owned by Thunder

1 Studios and published for the first time between
2 February 19, 2016, to November 25th, 2016?

3 A Yes.

4 Q And are you prominently featured in many of these
5 photos?

6 A Yes.

7 Q And I'd like you to turn to the next exhibit, which is
8 Exhibit 24.

9 Is this a certificate of registration number
10 VA2-024-116 registered December 12th, 2016, with the
11 United States Copyright Office?

12 A Yes.

13 Q And does it list approximately 15 photos that were
14 first published between August 26th, 2015, and
15 December 13th, 2015?

16 A It does.

17 Q All right.

18 MR. WIENER: Your Honor, I'd like to move both
19 Exhibits 24 and 25 into evidence.

20 THE COURT: Any objection? You mean 23 and 24?

21 MR. WIENER: Twenty-three and 24. Thank you for
22 the correction, Your Honor.

23 MR. TAYLOR: No objection.

24 THE COURT: All right. Twenty-three and 24 will
25 be admitted.

1 (Exhibit 23 and 24 received in evidence.)

2 BY MR. WIENER:

3 Q And after these photographs were copyrighted, did they
4 appear on the Kazalfamilystory.com website?

5 A Some of them did, yes.

6 Q I'd like you to turn to Exhibit 31.

7 Are these true and correct copyrights of printouts
8 from the Kazalfamilystory.com website?

9 A Yes.

10 MR. WIENER: Your Honor, I'd like to move
11 Exhibit 31 into evidence.

12 THE COURT: All right. Any objection?

13 MR. TAYLOR: No objection, Your Honor.

14 THE COURT: Thirty-one will be admitted.

15 (Exhibit 31 received in evidence.)

16 BY MR. WIENER:

17 Q Is this a printout from the Kazalfamilystory.com
18 website with photo of you?

19 A Yes.

20 Q It's dated March 2nd, 2017?

21 A Yes.

22 Q And it has below it what appears to be an e-mail
23 that -- well, first of all, the page is labeled:
24 "Rodric David Reminded the Kazal Family Refused his Family's
25 Witness Tampering Attempts - Day 163"?

1 A That's correct. That's what it says.

2 Q What does the Day 163 refer, to your understanding?

3 A It's the 163rd day in a row that I've received an
4 e-mail from this author.

5 Q And who's the author of the e-mail?

6 A Tony Kazal.

7 Q How are you able to tell that?

8 A He signed it at the bottom.

9 Q And did he obtain your permission to use the
10 photograph?

11 A No.

12 Q And this is one of the copyrighted photographs?

13 A Yes.

14 Q And it was published after the date it was copyrighted?

15 A Yes.

16 Q Can you read the last paragraph of this e-mail? It's
17 on the page Bates-stamped Plaintiffs' 1873.

18 A (Reading) I will not rest until -- excuse me. I will
19 not rest until you repay what you stole, plus damages,
20 apologize publicly for the lies you told and serve time in
21 prison for the despicable crimes you committed against me
22 and my entire family.

23 Q I'd like you to turn to the two pages over, which is
24 the document Plaintiffs' 1875, in the lower right-hand
25 corner.

1 A Yes.

2 Q Is this a picture of you?

3 A It is.

4 Q And that's another copyrighted photograph?

5 A It is.

6 Q Is this another e-mail from Tony Kazal?

7 A Yes.

8 Q I'd like you to turn to the third page of this e-mail
9 which is Bates-stamped Plaintiffs' 1877.

10 A Yes.

11 Q Could you read the sentence beginning at the bottom of
12 the page: "The evidence of your crimes..."

13 A (Reading) The evidence of your crimes is outlined on
14 Charif's website www.kazalfamilystory.com which something
15 with you and highlights the many crimes committed by you and
16 your co-conspirators against Charif and I.

17 Q Were there ever any finding that you committed any
18 crimes against Charif Kazal or Tony Kazal?

19 A No.

20 Q Were you ever found guilty by any court of stealing
21 from Charif and Tony Kazal?

22 A No.

23 Q Did you have Fairfax Media write malicious articles
24 about Charif and Tony Kazal?

25 A No.

1 Q What is Fairfax Media?

2 A Fairfax Media is a very large publishing organization,
3 Australia's version of say the New York Times, a very
4 well-respected journalistic organization.

5 Q Do you have any ownership, interest or control in
6 Fairfax Media?

7 A No.

8 Q Do you have any ability to influence what they publish?

9 A No.

10 Q Did you somehow cost the Kazal family in excess of
11 \$3 billion over the past seven years?

12 A No.

13 Q Do you have any idea why the Kazals believe that you
14 cost them \$3 billion?

15 A You'd have to ask them. I have no idea.

16 Q I'd like you to turn to the document Bates-stamped
17 Plaintiffs' 1880.

18 A Yes.

19 Q Is this another copyrighted photograph?

20 A It is.

21 Q And this was published on March 6th, 2017?

22 A Correct.

23 Q The woman who's next to you whose face is grayed out,
24 do you know who that person is?

25 A Yes.

1 Q Who is that?

2 A Chanel West Coast. She's a famous singer.

3 Q And when Thunder Studios published these photographs,
4 did it include the label: "The Corporate Thief"?

5 A No.

6 Q Did you consent to the Kazals super imposing those
7 labels on the photographs?

8 A No.

9 Q I'd like you to turn to the document Bates-stamped
10 plaintiffs' 1885.

11 A Yes.

12 Q Is this another copyrighted photograph?

13 A It is.

14 Q Did you ever authorize the Kazals to publish it on
15 their website?

16 A No.

17 Q Did they ever request permission to do so?

18 A No.

19 Q And if you turn to page Bates-stamped Plaintiffs' 1887,
20 does this e-mail state that it's from Charif Kazal?

21 A It does.

22 Q Can you read the last paragraph.

23 A (Reading) I will not rest until you pay what you
24 stole, plus damages, apologize publicly for the lies you
25 told and serve time in prison for the despicable crimes you

1 committed against me and my entire family.

2 Q Is that similar to the content that Tony Kazal
3 published?

4 A Near identical, to me.

5 Q I'd like you to turn to the document Bates-stamped
6 Plaintiffs' 1893.

7 Is this another copyrighted photograph of you?

8 A It is.

9 Q And did you consent to its publication on
10 Kazalfamilystory.com?

11 A No.

12 Q Looking at this e-mail, it's addressed to several
13 people. As a cc, it lists Tony Kazal, and then it lists
14 about several other names at Thunder Studios.

15 Can you tell the jury who those people are?

16 A They're all employees of Thunder Studios.

17 Q Is one of the persons Matthew Price?

18 A Yes.

19 Q Did Thunder Studios make any efforts to block these
20 e-mails from getting into its employees' in-boxes?

21 A We attempted to, yes.

22 Q Was that effort successful?

23 A In part, yes.

24 Q Before it was implemented, did the employees receive
25 some of these e-mails?

1 A Every employee has received many e-mails. Firewalls
2 are only as good as your ability to know how they're being
3 attacked. So they come in with a different protocol, you
4 pick it up, it goes through, then you have to replace it and
5 add a new component to the firewall.

6 Q I'd like you to turn to the document Bates-stamped
7 Plaintiffs' 1897.

8 Is this another copyrighted photograph?

9 A Yes.

10 Q And it's published on Kazalfamilystory.com on
11 March 8th, 2017?

12 A Yes.

13 Q Besides -- did the original photograph include the
14 label: "Catch Me If You Can"?

15 A No.

16 Q Did it include the sign: "Rodric David, the Corporate
17 Thief"?

18 A No.

19 Q I'd like to turn to the document Bates-stamped
20 Plaintiffs' 1902.

21 Is this another copyrighted photograph of you that
22 was published on Kazalfamilystory.com on March 9th, 2017?

23 A Yes.

24 Q Is the content of this e-mail generally similar to the
25 other e-mails we've discussed?

1 A Yes. It's all outrageous.

2 Q I'd like you to turn to the document Bates-stamped
3 Plaintiffs' 1906.

4 Is this another copyrighted photograph of you?

5 A It is.

6 Q And nobody at Thunder Studios ever consented to its
7 publication on Kazalfamilystory.com?

8 A No.

9 Q I'd like you to turn to the document Bates-stamped
10 Plaintiffs' 1910.

11 There's another copyrighted photograph of you.

12 A Yes.

13 Q It's different than the other image we saw of the
14 orange sports car; correct?

15 A Same car, different image.

16 Q What kind of car is that?

17 A McLaren.

18 Q And the second to the last photograph I'll show you, if
19 you can turn to Plaintiffs' 1915?

20 A Yes.

21 Q Is this another copyrighted photograph of you?

22 A It is.

23 Q And it was published on Kazalfamilystory.com on
24 March 25, 2017?

25 A Yes.

1 Q And did Thunder Studios consent to this publication?

2 A No, but it did cause great angst because that's
3 Whoopi Goldberg in the photo, and so her agents weren't
4 happy.

5 Q Where does Whoopi Goldberg appear in the photograph?

6 A To the left, behind --

7 Q And one of the photographs that prompted the original
8 DMCA complaint that was before the copyrights were
9 registered was -- had a photo of Whoopi Goldberg too.

10 Were there multiple photos of Whoopi Goldberg?

11 A Yes.

12 Q And, to your knowledge, was this photograph first
13 published for the first time after the copyrights were
14 registered?

15 A Yes.

16 Q And the last photograph. If you turn to the document
17 Bates-stamped Plaintiffs' 1919 --

18 A Yes.

19 Q -- is this another copyrighted Thunder Studios'
20 photograph?

21 A It is.

22 Q And it was published on May 4th, 2017?

23 A On their website, yes.

24 Q And it's an e-mail published by Tony Kazal?

25 A Yes. You'll see the links below that one to all of the

1 names. You can see how there's a lot of different ones.

2 Q Are you referring to Adam Kazal, Charif Kazal, John
3 David, Karl Kazal?

4 A They're the meta tags. But, no, you got the Minister
5 for Communications in Australia, the federal minister, and
6 people with addresses to Fairfax Media.

7 Q Do you have an understanding of what the purpose of the
8 meta tags is?

9 A It's to promote ranking on -- it's part of
10 search-engine optimization.

11 Q If somebody did a search for Adam Kazal, the search
12 would result in there being a meta tag with Adam Kazal's
13 name in it?

14 A It would help the page ranking on a generic Google
15 search, yes.

16 THE COURT: Counsel, why don't we take a 15-minute
17 recess.

18 Ladies and gentlemen, do not form or express any
19 opinion about the case until the matter is finally submitted
20 to you.

21 Do not talk with anyone about the case, do not
22 allow anyone to talk to you about the case.

23 And do not conduct any research of any kind on any
24 subject matter connected with this case.

25 We'll have you come back at 3:20, and then we'll

1 go probably until a quarter to 5:00 today.

2 All right. Thank you.

3 (Jury out.)

4 THE COURT: Sir, you may step down.

5 All right. We'll take 15 minutes.

6 Again, I'm going to remind counsel, you've got to
7 ask questions and get answers. We cannot have continuing
8 narratives as it relates to this testimony. That's how we
9 do things in this courtroom. All right.

10 MR. WIENER: Yes.

11 (Recess taken at 3:08 p.m.; proceedings
12 resumed at 3:28 p.m.)

13 THE COURT: All right. Counsel, you may resume.

14 BY MR. WIENER:

15 Q Mr. David, I'd like you to turn to Exhibit 32 in the
16 binder.

17 A Yes.

18 Q Are these true and correct copies of screenshots from
19 the Kazalfamilystory.com website?

20 A Yes.

21 MR. WIENER: All right. I'd like to move
22 Exhibit 32 into evidence, Your Honor.

23 THE COURT: Any objection?

24 MR. TAYLOR: No objection, Your Honor.

25 THE COURT: Thirty-two will be admitted.

1 (Exhibit 32 received in evidence.)

2 BY MR. WIENER:

3 Q Mr. David, in about 2012, did you and your family move
4 to California?

5 A Very early 2012, yes.

6 Q What prompted that move?

7 A Up until that time, we -- my family, myself, my wife,
8 my parents, my brothers, my sisters-in-laws, my uncles,
9 friends I have associations with, business associates have
10 had repeated run-ins with the Kazals over the course of the
11 prior two years leading up to some outrageous behavior
12 exhibited towards my father.

13 And so we thought that if we moved and relocated
14 -- I'm married to my college sweetheart, an American woman,
15 so my children are duo citizens, and so is my wife.

16 So we thought if we moved to the United States, we
17 could potentially deescalate the amplification of the
18 Kazals' harassment and victimization of my broader family.

19 Q Was that successful?

20 A Clearly not.

21 Q I'd like you to turn to Exhibit 45 in the binder.

22 A Yes.

23 Q Are these text messages that you and all your family
24 members received?

25 A Thirty-five?

1 Q Forty-five.

2 A Sorry.

3 Yes, they are.

4 MR. WIENER: I'd like to move Exhibit 45 into
5 evidence, Your Honor.

6 THE COURT: Any objection?

7 MR. TAYLOR: Just as far as authentication and
8 this witness's personal knowledge. It's unclear who the
9 texts are between, Your Honor.

10 THE COURT: Let's lay a little foundation, please.

11 MR. WIENER: Sure.

12 BY MR. WIENER:

13 Q Do the texts list the name Adam Kazal at the bottom of
14 them?

15 A Yes.

16 Q Do you recognize the phone number at the top of the
17 text messages?

18 A This could be from my father's phone.

19 Q All right. So the 61 414 440 209 phone number is
20 John David's telephone number?

21 A I could be wrong on that. We're talking, you know --

22 Q Did you receive any text messages from Adam Kazal?

23 A So my brothers, my dad and myself, we received the
24 identical ones, yes.

25 Q And they're identical to the text contained in

1 Exhibit 45?

2 A I believe so.

3 Q And these text messages accuse you of having stolen
4 money from the Kazal family?

5 A They do.

6 Q All right. I'd like you to turn to the page
7 Bates-stamped Plaintiffs' 144, three pages from the end.

8 A Yes.

9 Q Can you read the first text message?

10 A (Reading) Time is running out and interest is accruing
11 from today at 12 percent compounded daily, make sure the
12 payment is made without delay. You must pay to avoid
13 further action. Adam Kazal.

14 Q Did you understand what the further action that
15 Adam Kazal was referring to?

16 MR. TAYLOR: Objection, Your Honor. Lack of
17 personal knowledge.

18 THE COURT: He may answer. Overruled.

19 THE WITNESS: Given it's Adam Kazal, my automatic
20 thought is it's going to be violence of some sort.

21 MR. WIENER: Your Honor, I'd like to move
22 Exhibit 45 into evidence.

23 THE COURT: Counsel, I need you to approach,
24 please.

25 (Sidebar conference, reported.)

1 THE COURT: Again, maybe I didn't prepare this.
2 This is your case, but I'm concerned. These are text
3 messages that these -- I'm just going to ask: Did you not
4 discuss this with your client before his testimony? I'm
5 just troubled that we have a witness who continually says,
6 "I think it's this. I think it's that."

7 Was this just based on your reliance that the
8 stipulation would take care of all of that? I'm concerned.

9 MR. WIENER: These are in connection with the
10 apprehended items order. He didn't maintain text messages
11 as far as I'm aware of from five years.

12 THE COURT: But the question that jumps into my
13 mind is: Did you not show these documents to your client
14 before he testified today? I mean, why does he continually
15 say, "I think it's this. I think it's that"? That leads me
16 to believe he may not be sure. But maybe that's just his
17 dialect?

18 MR. WIENER -- I think was texts that he received
19 five years ago --

20 THE COURT: I'm sorry. I'm going to interrupt
21 you. You're saying these texts he received. These are not
22 texts that he received. These are text messages to a number
23 he doesn't recognize. I'm just having a lot of difficulty
24 saying these documents -- he says he received similar text
25 messages. He can say what the text messages he received

1 said if they're the same --

2 MR. WIENER: All right. I won't seek to admit
3 this.

4 (Sidebar concluded.)

5 BY MR. WIENER:

6 Q Mr. David, in the 2013 timeframe, did you personally
7 receive any text messages from Adam Kazal?

8 A I did.

9 Q To the best of your recollection, what was the content
10 of those text messages?

11 A I believe it was identical to what my brothers were
12 receiving.

13 Q Do you recall if you received payment demands from
14 Adam Kazal?

15 A Yes.

16 Q Do you recall if you received threats of further
17 action?

18 A Similar to this one, yes.

19 Q What caused you to believe that further action was a
20 threat to possible violence?

21 A Because he physically assaulted my father.

22 Q How do you know Adam Kazal physically assaulted your
23 father?

24 A Because my father has a New South Wales Police order
25 against him.

1 Q What was the basis for the order you're referring?

2 MR. TAYLOR: Lacks personal knowledge, Your Honor.

3 THE COURT: If he knows the contents. If he
4 doesn't know the contents, let's move on.

5 THE WITNESS: My father and brothers were
6 harassed, and my father was assaulted repeatedly.

7 BY MR. WIENER:

8 Q How do you know your father was assaulted repeatedly?

9 A Because he and my brothers, my family, told me about
10 it. And also it's embedded in the police report, some of
11 the activities. And there are other police reports that
12 they submitted.

13 At the time, my father was 82.

14 MR. TAYLOR: Move to strike as nonresponsive.

15 THE COURT: Sustained. Stricken.

16 BY MR. WIENER:

17 Q You left your homeland, Sydney, in 2012 to come to
18 California?

19 A Yes.

20 Q Did you try to keep a low-public profile when you moved
21 to California?

22 A Yes. We did everything we could to try and protect our
23 address, where our children went to school, all the normal
24 courses to try and ensure that hopefully by us being so far
25 away from Sydney, that it would potentially all die down.

1 They'd get on with their lives.

2 Q All right. And did the Kazals in October of 2016 begin
3 what I'll refer to as a harassment campaign against you in
4 Sydney?

5 A They did, and here.

6 Q Can you describe what that consisted of?

7 A You've seen the evidence submitted, the series of
8 expletive e-mails to me and my staff. They're day one and
9 they go, I think, up to three hundred and something. So I
10 estimate we've received at least a few hundred e-mails over
11 the course of a year or more from multiple Kazal family
12 brothers. And all expressing outrageous statements. That
13 I'm a criminal. I've stolen something. That all of my
14 employees are criminals doing criminal behavior.

15 And, then, in -- on October 26th, I believe the
16 day is, the day that you saw a video before of a van and
17 protestors, that video was actually in November, but on the
18 26th of October, I received huge swaths of phone calls and
19 messages and texts and e-mails from friends and family,
20 associates, lawyers and alike that they'd woken up in Sydney
21 and my whole neighborhood where my family lives and friends
22 where I also used to live, every street pole is covered with
23 my photograph and a photograph of a former business
24 associate saying that we're corporate thieves, that we've
25 stolen, I think it was \$180 million. Go to the

1 Kazalfamilystory website for more.

2 Subsequently, there was 30,000 flyers with the
3 same message distributed throughout the neighborhood. There
4 were four vans similar to the one you saw in the video
5 driving around the city for a period of months with also
6 having protestors doing the same thing. That was on the
7 26th.

8 Here in L.A., on the 26th, approximately 7:00 in
9 the morning, there was half a dozen men holding up the
10 banners, the flyers that you saw in the photos with my
11 photo, the photo of my former business associate, again with
12 the same messaging, that I'm a thief, a criminal, and I've
13 stolen \$180 million. Banners on some of my neighbors' homes
14 and property and the street furniture.

15 Q All right. I'd like to play --

16 MR. TAYLOR: Your Honor, I'm sorry to interpose an
17 objection. I would just move to strike that part of the
18 answer that was based on what his friends in Australia told
19 him as inadmissible hearsay.

20 THE COURT: Sustained.

21 MR. WIENER: Your Honor, to address that
22 objection, I would like to play a video of the events that
23 was taken in Australia and posted on the
24 Kazalfamilystory.com website, which is Exhibit 7.

25 THE COURT: All right. You may proceed.

1 MR. WIENER: I'd move Exhibit 7 into evidence.

2 THE COURT: All right. Any objection to
3 Exhibit 7?

4 MR. WIENER: Exhibit 7, Your Honor, consists of
5 one video of the events in Sydney, Australia, and the other
6 video that we played during the opening statement. I'll
7 show both videos concurrently. They're both approximately
8 one minute in length.

9 THE COURT: Any objection?

10 MR. TAYLOR: We would object, Your Honor. This
11 witness is lacking personal knowledge.

12 THE COURT: The objection's noted but overruled.
13 You may proceed.

14 (Exhibit 7 received in evidence.)

15 (Video played.)

16 THE COURT: I'm not sure we need the music,
17 Counsel.

18 (Video played.)

19 BY MR. WIENER:

20 Q All right. Mr. David, did you see this video on the
21 Kazalfamilystory.com?

22 A I did.

23 Q Is it a true and correct copy of the video that you
24 saw?

25 A It is.

1 Q Did you recognize the neighborhood that was shown in
2 the video?

3 A I did.

4 Q What neighborhood is that?

5 A It's Point Harbor in Sydney, and then also at the end
6 there, those protestors are outside the prime minister of
7 Australia's Sydney office.

8 Q Do you have family or business acquaintances in that
9 neighborhood?

10 A So that house that was depicted I believe is the home
11 of David Singh, the former business associate on the -- on
12 the placards.

13 Q And did either you or Mr. Singh steal \$180 million --

14 A Absurd, absolutely absurd. Random conspiracy theories
15 that Kazals had for decades.

16 MR. TAYLOR: Move to strike as nonresponsive,
17 Your Honor. Yes-or-no question.

18 THE COURT: Overruled.

19 MR. WIENER: I'd like to show the second video
20 which was shown during the opening statement which is
21 Exhibit 7 labeled "California Protest Video."

22 (Video played.)

23 BY MR. WIENER:

24 Q And this video was also posted on Kazalfamilystory.com?

25 A No.

1 Q Did you witness any of the events that are shown in the
2 video?

3 A Yes.

4 Q Where did this take place?

5 A There's two locations that I observed. The beginning
6 of it is the cross street from my residential street and the
7 main street leading into my children's elementary school,
8 and the other section is out in front of my business at
9 Thunder Studios.

10 Q And concurrently with this, was there also -- you
11 mentioned that there were posters and flyers that were
12 circulated in Australia?

13 A Yes.

14 MR. WIENER: Your Honor, I'd like to move both of
15 the videos -- they're Exhibit 7 into evidence.

16 THE COURT: They're already in evidence.

17 BY MR. WIENER:

18 Q I'd like you to turn to Exhibit 2.

19 A Yes.

20 Q Do you see the colored photograph labeled: "Expose the
21 Corporate Thieves"? It's the second page.

22 A I do.

23 MR. WIENER: Your Honor, I'd like to move
24 Exhibit 2 into evidence.

25 Let me lay a foundation.

1 BY MR. WIENER:

2 Q Had you seen this flyer before?

3 A Yes.

4 Q When did you first see it?

5 A I first saw it through a text that was sent to me from
6 Australia of the campaign that occurred there, and then I
7 subsequently saw it within 24 hours on the placards that the
8 guys were holding that you saw in the video.

9 Q And by "the placards," are you referring to the video
10 of events in Sydney or in California, or both?

11 A Both.

12 Q And this is the exact placard you saw them carrying?

13 A It's exact, yes.

14 MR. WIENER: Your Honor, I'd like to move
15 Exhibit 2, just the first colored placard into evidence.

16 THE COURT: The photograph Bates-stamped
17 Kazal 000002?

18 MR. WIENER: Correct.

19 THE COURT: Any objection to that, a part of
20 Exhibit 2, being introduced into evidence?

21 MR. TAYLOR: Not to that page.

22 THE COURT: That page, and that page only, will be
23 introduced into evidence.

24 (Exhibit 2, page Bates-stamped Kazal 000002 only,
25 received.)

1 BY MR. WIENER:

2 Q All right. Do you see on the bottom of that page it
3 refers to: Read the full story www.kazalfamilystory.com?

4 A Yes.

5 Q What does it say beneath that?

6 A It says the symbol "care of" Adam Kazal.

7 Q What did you understand that symbol to mean?

8 A This is a message to me from him.

9 Q Did you understand that Adam was involved in some way
10 with the Kazalfamilystory.com website?

11 A Can you repeat the question, please.

12 Q Did you understand from that message that Adam Kazal
13 was somehow involved with the Kazalfamilystory.com website?

14 A Yes.

15 Q Did you take any actions to request that the conduct
16 desist?

17 A So we immediately contacted our lawyers both in
18 Australia and in the United States to get an
19 understanding -- contemporaneously, we didn't know what was
20 going on, right? Who these people are holding signs, what
21 have you. Imagine waking up to that in the morning?

22 So we contacted the lawyers. We had our
23 Australian attorney immediately send a cease and desist
24 letter to all the Kazals, I believe, the same day.

25 Q I'd like you to turn to Exhibit 9 in the binder.

1 A Yes.

2 Q Is this an e-mail you received from Adam Kazal on
3 October 27, 2016?

4 A It is.

5 Q Is that date possibly October 26th because of Australia
6 being in a separate time zone?

7 A Quite possibly.

8 Q Can you read Exhibit 9, the entirety of the e-mail to
9 the jury.

10 And I'd like to mark this -- move Exhibit 9 into
11 evidence.

12 THE COURT: Any objection?

13 MR. TAYLOR: No objection, Your Honor.

14 THE COURT: All right. Nine is admitted.

15 (Exhibit 9 received in evidence.)

16 THE WITNESS: (Reading) Adam Kazal Demands
17 Answers from the Online Identity Thief, Rodric David -
18 Day One.

19 Rodric David you defrauded companies you owned
20 with my brothers Charif and Tony, you admitted under oath to
21 being one of the Sydney Morning Herald -- being the one the
22 Sydney Morning Herald wrote their lies for to fabricate an
23 ICAC inquiry.

24 You used the Herald articles to avoid prosecution
25 and steal the \$180 million company you owned with Charif and

1 Tony, Global Renewables, with help on the theft from the CEO
2 David Singh.

3 You had the Herald write an article attacking all
4 of our family members and Oscar is suing them for that.

5 Now, I find for at least the six months -- the
6 last six months you have stolen my identity to publish
7 disgusting lies to embarrass me and my family just because I
8 am Charif and Tony's brother.

9 You also stole the identity of Charif, Tony and
10 Karl.

11 You made it personal, and I will show you that I'm
12 not going to put up with the crap you tried to dish out to
13 my brothers.

14 My team in L.A. are going to expose you wherever
15 you go until you are charged with your crimes, and my team
16 in Sydney will expose all of the spineless thieves who
17 thought they could help themselves to steal from my family.

18 Getting your Hyena to scream at the L.A. Police
19 like she did yesterday exposing how the disgustingly racist
20 elements of your family are not restricted just to your
21 Syrian David blood is not going to stop me and my crew.

22 I will show the good people of L.A. what scum they
23 have allowed into their city that Australia is glad to be
24 rid of.

25 Let's see how you like having the truth of what

1 you did reported for the world to see your true colors.

2 You and your crime Lord father, John David, might
3 be used to stealing white-collar style with the help from
4 your family's ex-politician lap dog, but I don't really care
5 about any of that.

6 You start a fight with me, I'll show you how Adam
7 Kazal is different than the rest of the family.

8 See you around, grub.

9 BY MR. WIENER:

10 Q What did you understand the Adam Kazal team in L.A. to
11 be?

12 A At the time I had no idea. I thought it could be a
13 hitman.

14 Q What did you understand the reference to "your hyena"
15 to be?

16 A My wife.

17 Q Do you understand what the term "hyena" means?

18 A I'm assuming it's some derogatory term that he's used.

19 Q Do you know why he's saying your family is racist?

20 A I have no idea.

21 MR. TAYLOR: Calls for speculation, Your Honor.

22 THE COURT: Sustained.

23 BY MR. WIENER:

24 Q Do you have Syrian blood?

25 A That's the funny thing, no.

1 Q Was your father a crime lord of any sort?

2 A No. My father's one of the most respected former
3 business leaders of the late last century. He took over
4 from his father seven corner stores and built the largest
5 wholesaler in the world which is now one of the top 50th
6 largest companies in the Australian market. He's revered in
7 Australian business circles.

8 Q When did your father pass away?

9 A A little under two years ago.

10 Q Do you recall if it was before or after this e-mail?

11 A It was after.

12 Q Was he aware -- did you ever discuss this e-mail with
13 him?

14 A I discussed a lot of things with my dad. One of his
15 great pains for me personally was the harassment we were all
16 going through as a family from these people.

17 MR. TAYLOR: Objection, Your Honor.

18 Nonresponsive.

19 THE COURT: Sustained.

20 MR. WIENER: What's the basis for the objection?

21 THE COURT: It was nonresponsive to the question
22 that you asked.

23 MR. WIENER: All right.

24 THE WITNESS: Yes. He was aware of the e-mail.

25 MR. WIENER: Right.

1 BY MR. WIENER:

2 Q Did you have any sense what your father's emotional
3 reaction was upon learning of the e-mail?

4 A This e-mail and others, what he saw, what we all saw as
5 a family was an acceleration, an increasing nature of -- of
6 terroristic-style harassment caused us to share great fear
7 as a family and caused him great anxiety, great pain, great
8 emotional distress in the last few months of his life.

9 MR. TAYLOR: I would object to the first part as
10 nonresponsive, Your Honor.

11 THE COURT: I'll allow it. Overruled.

12 Next question, please.

13 BY MR. WIENER:

14 Q What did you understand the statement to be that Adam
15 Kazal -- he'll show you how Adam Kazal is different to the
16 rest of the family?

17 A The next action was not going to be in words.

18 Q And did the fact that he told you, "See you around,
19 grub" contribute to your understanding?

20 A Yes.

21 Q I'd like you to turn to Exhibit 11.

22 Is this a true and correct copy of a Tweet that
23 you received from Adam Kazal?

24 A Yes.

25 MR. WIENER: I'd like to move Exhibit 11 into

1 evidence, Your Honor.

2 THE COURT: Any objection?

3 MR. TAYLOR: No objection, Your Honor.

4 THE COURT: All right. It will be admitted.

5 (Exhibit 11 received in evidence.)

6 BY MR. WIENER:

7 Q Can you read this Tweet into evidence, Mr. David.

8 A (Reading) Hey, Rodric David, my team in L.A. are going
9 to expose you wherever you go - Day 1.

10 And then it's got some handles.

11 Q Do you recognize the photograph in the upper left-hand
12 corner?

13 A I do.

14 Q Do you know what that's an image of?

15 A It's a common image used to express criminal intent.

16 Q And what is the caption or slogan that's written
17 underneath that?

18 A (Reading) Revenge is sweet and not fattening. Albert
19 Hitchcock hobbies: Hunting pigs, catching thieves.

20 Q What did you understand that slogan to mean?

21 A I understood it to be apt of Adam Kazal being the
22 Standover Man that we believe him to be.

23 Q Did you have your attorney send a letter to the Kazals
24 asking them to cease and desist their conduct?

25 A Yes, immediately.

1 Q And what is the name of your attorney who sent the
2 letter?

3 A That was Walter MacCallum of Akin lawyers in Sydney.

4 Q I'd like you to turn to Exhibit 12.

5 A Yes.

6 Q Is this a true and correct copy of the e-mail from
7 Adam Kazal to Walter MacCallum?

8 A It is.

9 MR. TAYLOR: Lacks foundation, Your Honor.

10 THE COURT: Let's see if he can lay a foundation.

11 BY MR. WIENER:

12 Q Did Walter MacCallum forward this e-mail to you?

13 A Yes.

14 Q Did he tell you it was an e-mail he received from
15 Adam Kazal?

16 A Yes. And it was also published on his Twitter page.

17 THE COURT: On whose Twitter page?

18 THE WITNESS: Adam Kazal's

19 THE COURT: Go ahead.

20 THE WITNESS: So it was handed to me.

21 BY MR. WIENER:

22 Q You saw this exact e-mail on his Twitter page?

23 A Yes.

24 MR. WIENER: I'd like to move Exhibit 12 into
25 evidence, Your Honor.

1 THE COURT: Any further objection?

2 MR. TAYLOR: No objection, Your Honor.

3 THE COURT: All right. Twelve will be admitted.

4 (Exhibit 12 received in evidence.)

5 BY MR. WIENER:

6 Q This will be the last lengthy e-mail I ask you to read,
7 but given it's significance, I would like you to read the
8 entire e-mail.

9 A Sure.

10 This is from Adam Kazal to Walter MacCallum,
11 Sunday, October 30th, I'm assuming Australian time.

12 (Reading) I received your letter that appears to
13 be trying to link me back to a case I was removed from at
14 the outset when I removed the content your client claimed
15 offense to from my Twitter feed.

16 I therefore do not recognize your threat as
17 related to the case involving my brother Charif, which is
18 now a separate issue. I responded to you a long time ago
19 and that case is ended for me.

20 Regarding the van, do you seriously claim to be a
21 lawyer?

22 You are the same person as I recall that
23 orchestrated and fabricated the ICAC case with Rodric David
24 just to create a smokescreen for his highway robbery. That
25 makes you nothing more than a common thug and liar,

1 fabricating claims to enable this man to steal from innocent
2 victims.

3 Is that what a lawyer does? I don't think so.

4 You want me to cease using the van. Are you
5 serious?

6 You're aware your client has been identified
7 through subpoenas in Los Angeles as behind the identity
8 theft of me and three of my brothers. Thunder Studios'
9 employees registered these websites and defamed me and my
10 entire family and a series of other innocent victims. So if
11 you think I'm going to stop, then clearly you aren't a very
12 good lawyer.

13 So just so we are clear, your client stole my
14 online identity.

15 Your client has been defaming me for more than six
16 months and has not taken down the site, despite being served
17 papers from lawyers in America.

18 Your client previously admitted to supplying the
19 Sydney Morning Herald with misleading information used to
20 defame my family in more than 30 articles. Several of these
21 articles were written about me personally.

22 Unless your client removes the offensive website
23 and transfers the domain www.adamkazal.com to me as the
24 lawful owner, pays my costs of 666,666.66 for legal and
25 marketing costs, pain and disruption, to the bank account

1 mentioned below and issues a written public policy by
2 4:00 p.m. tomorrow, I reserve the right to not only continue
3 using the van but to also increase the size of my fleet.

4 He provides a bank account. The account name --

5 Q You don't have to read the account number.

6 A (Reading) If you fail to meet my demands and include a
7 copy of any EFT confirmation issued by the bank, then I
8 reserve the right to do whatever is necessary to expose the
9 corporate fraudsters, Rodric David and David Singh, who
10 stole 180 million from my family, as well as all other
11 persons that have intentionally aided and abetted these
12 fraudsters in the process. Feel free to warn all involved
13 to ensure they have a good digital image online if they want
14 to look their best on the side of my growing fleet of vans.

15 For the avoidance of any doubt, that includes you
16 too, sir. Adam Kazal.

17 Q Did you view this as an attempt to extort money from
18 you?

19 A Yes.

20 Q Did the number of \$666,666.66 have any particular
21 connotations for you?

22 A Well, you know, I think everyone recognizes that the
23 666 is the sign of the devil.

24 Q Did you instruct your attorneys to seek a restraining
25 order against the Kazals?

1 A Yes, immediately sought to seek injunctive relief.

2 Q I'd like you to turn to Exhibit 18.

3 Is this a true and correct copy of an order from
4 the federal court of Australia dated November 11th, 2016?

5 A It is.

6 Q And does it bear the seal of the federal court of
7 Australia?

8 A It does.

9 Q And who are the persons who applied for this order?

10 A Thunder Studios and myself as it pertains to an action
11 that is current in the federal court of Australia for an
12 action brought in 2014 for defamation and other actions
13 against Charif Kazal and Tony Kazal in regards to this
14 Kazalfamilystory website.

15 Q Is this a true and correct copy of the order entered by
16 the court?

17 A Yes.

18 MR. WIENER: I'd like to move Exhibit 18 into
19 evidence, Your Honor.

20 THE COURT: Any objection?

21 MR. TAYLOR: Not to its admissibility, just to the
22 extent that the witness has mischaracterized the document.

23 THE COURT: The objection is noted but overruled.
24 It will be admitted.

25 (Exhibit 18 received in evidence.)

1 BY MR. WIENER:

2 Q And did paragraph 1 of this order prohibit Adam Kazal
3 from posting the image that's shown as Plaintiffs' 1186?

4 A Yes.

5 Q Did paragraph 1b of this order restrain Adam Kazal from
6 making statements that you are a corporate thief, stole
7 \$180 million, were guilty of fraud, a con man, conspired
8 with David Singh to steal \$180 million or any imputation to
9 the same or similar effect?

10 A Yes.

11 Q Did Adam Kazal comply with this order?

12 A No, he did not.

13 Q And what is the basis for your statement that
14 Adam Kazal did not comply with the order?

15 A Because the Australian federal court found him
16 criminally guilty of contempt of this order.

17 Q Were there any activities similar to the harassment
18 that were conducted after November 11th?

19 A When we spoke about it before, I mentioned that when I
20 woke up there were protestors outside my house on the 26th
21 of October. Subsequent to this order in November, the
22 protests continued, and that's when the van arrived for the
23 first time in Los Angeles.

24 Q I'd like you to turn to Exhibit 16.

25 A Yes.

1 Q Looking at the images here, are these similar to the
2 van that you saw in California?

3 A It is the van I saw in California. But it's -- it
4 subsequently had some decals added to it, I believe.

5 MR. WIENER: Your Honor, I'd like to move
6 Exhibit 16 into evidence, just the three images of the van
7 that Mr. David testified he saw in California.

8 THE COURT: All right. Any objection to the
9 images depicted in Exhibit 16?

10 MR. TAYLOR: That's page three of the document?

11 THE COURT: There are three pages. I assume
12 Mr. Wiener is talking about those three pages of 16.

13 MR. TAYLOR: I thought it was just page 3.

14 MR. WIENER: It's -- there's three images that are
15 pages four, five, and six of the document. I'm not moving
16 the invoices into the record at this moment.

17 THE COURT: Any objection?

18 MR. TAYLOR: I think we're looking at different
19 exhibits, Your Honor.

20 THE COURT: Sixteen?

21 MR. TAYLOR: Can I look at counsel's binder?

22 THE COURT: Yes.

23 MR. TAYLOR: No objections to the last three
24 pages.

25 THE COURT: So the three photographs in 16 will be

1 admitted.

2 (Exhibit 16, three photographs only, received in
3 evidence.)

4 BY MR. WIENER:

5 Q And what days did you see this van appear in your
6 neighborhood and by Thunder Studios?

7 A I want to say the van arrived mid November, drove
8 around my neighborhood in the mornings, and then drove
9 around my business in the afternoons and the evenings for at
10 least a week.

11 Q Do you recall during what times of day the van
12 appeared?

13 A To the best of my recollection, it was always parked in
14 between my house and my children's elementary school by at
15 least 7:00 o'clock in the morning. It was there, you know
16 for at least a few hours because I observed it. You know,
17 by around 10:30, 11:00, around Thunder Studios.

18 Q What time does your children's elementary school
19 commence?

20 A Drop off usually is about a 45-minute process between
21 about 7:30 and 8:15.

22 Q To your knowledge, was the van present during the
23 drop-off process?

24 A Yes.

25 Q Did you receive any complaints from anyone other than

1 your family members regarding the van?

2 A Yes. We received, obviously, complaints from our
3 neighbors, as well as other parents from the children's
4 school.

5 Q Was it personally embarrassing to you to be labeled as
6 a corporate thief?

7 A Incredibly embarrassing. Absolutely. I wasn't
8 concerned for myself as much as I was for my children at the
9 time.

10 Q Did you observe the activity upset your children?

11 A My wife, my children, my employees. Even -- I mean,
12 ramifications to this day are severe.

13 Q Can you describe the ramifications?

14 A So my family -- my children, they're slightly different
15 today. They're not -- if a car door slams out on the
16 street, it wakes them up at night. Some -- my wife has
17 obviously gone through a very emotional, distraught period.
18 It kills me to see the stress and anxiety and the pain and
19 what have you. I mean, I'm -- you know, people taking the
20 law into their own hands is just something I don't
21 understand. This outrageous behavior is just extraordinary.

22 I'm very sad, very sad this has happened and my
23 wife was put through this and my children have had what we
24 fear could be long-term social impact on it, on them because
25 of it.

1 Q Did you also install a new security system at your --

2 A Immediately. Two keys locked, armed security. We now
3 have a security service that will have armed guards at our
4 house in less than three minutes on call and at work.

5 Q And did you also hire guards at Thunder Studios?

6 A Immediately.

7 Q Would you have done that if you believed it was just
8 going to be words?

9 A No, no. The message is clear. Adam Kazal is
10 different.

11 Q Did the federal court of Australia make any findings
12 that Adam Kazal was in contempt of the court's orders?

13 MR. TAYLOR: Lacks foundation, Your Honor.

14 THE COURT: If he knows.

15 THE WITNESS: I definitely know. Adam Kazal was
16 found guilty of criminal contempt of court in a civil matter
17 and was sentenced to in excess of 30 months in jail.

18 BY MR. WIENER:

19 Q I'd like you to turn to Exhibit 35.

20 Is this a true and correct copy of an order of the
21 federal court of Australia, dated July 31st, 2017?

22 A Sorry. Excuse me. It is.

23 Q And is this the order that sentences Adam Kazal to
24 33 months in prison?

25 A I believe this is actually the appeal order. It's my

1 understanding that Adam Kazal appealed the first order and
2 this is the final order sentencing him to jail, yes.

3 Q Let me back up before I introduce this order.

4 I'd like you to turn to Exhibit 30.

5 A Yes.

6 Q Is this a true and correct copy of the order of the
7 federal court of Australia dated February 27, 2017?

8 A It is. It is.

9 MR. WIENER: Your Honor, I'd like to move
10 Exhibit 30 into evidence.

11 THE COURT: All right. Any objection?

12 MR. TAYLOR: No objection, Your Honor.

13 THE COURT: All right. Thirty will be admitted.

14 (Exhibit 30 received in evidence.)

15 BY MR. WIENER:

16 Q Did this order make a finding that Adam Kazal had
17 breached the November 11th, 2016, restraining order?

18 A Yes.

19 Q And did it find that he violated by making posts and
20 republishing posts?

21 A In part, I believe, yes.

22 Q I'd like you to read on reasons for the judgment, which
23 is Plaintiffs' page 1738, paragraphs two, three, and four.

24 A (Reading) The Power to Punish for Contempt.

25 I found the contemnor guilty of four counts of

1 contempt (charges 3, 5, 6, and 7) for breaching orders (the
2 four breaches) that I made with his consent on 11
3 November 2016 (the 11 November orders), and on two further
4 counts of contempt (charges 8 and 9) committed because he
5 had made public statements that were both intended and
6 calculated to influence Rodric David, the second applicant,
7 as a party, in the conduct of the principal proceedings and
8 that exposed him to the risk of prejudgment of the issues or
9 merits of those proceedings (the two interferences).

10 Three, the nature of the two categories of
11 contempt that I found is different in the sense that each of
12 the four breaches involved personal disobedience to an order
13 that directly bound the contemnor as a party to the
14 proceedings to do, or refrain from doing, some act, while
15 each of the two interferences involved acts or conduct that,
16 as a matter of practical reality, had a tendency to
17 interfere with the due administration of justice in these
18 proceedings. However, the four breaches and the two
19 interferences were all contempts of the court because they
20 interfered in the due administration of justice.

21 Four, our society is structured on the basis that
22 the courts of law must be accessible to all persons rich or
23 poor, weak or strong, popular or unpopular, and whose cases
24 may or may not be considered by others or the public to be
25 good or bad. It is essential that everyone knows that the

1 courts are independent, not only of Government but also of
2 other influences, and that the courts are also seen to be
3 entirely free from outside influences, including public
4 pressure.

5 It is also fundamental that persons must obey, and
6 cannot be allowed to ignore, orders that the courts make.
7 The due administration of justice requires that everyone be
8 able to access the courts to hear and determine disputes,
9 that all persons in our society accept that the orders made
10 by the courts reflect the application of the law by which
11 all are governed and that those orders must be obeyed while
12 they are in force.

13 Q And did the court -- did Adam Kazal appeal this order?

14 A He did.

15 Q And did that result in the order that we previously
16 spoke about marked Exhibit 35?

17 A It was.

18 MR. WIENER: I'd like to move Exhibit 35 into
19 evidence, Your Honor.

20 THE COURT: Any objection?

21 MR. TAYLOR: No, Your Honor.

22 THE COURT: Thirty-five will be admitted.

23 (Exhibit 35 received in evidence.)

24 BY MR. WIENER:

25 Q And that's the order that sentenced Adam Kazal to

1 prison?

2 A Yes.

3 Q Who's David Singh again?

4 A David Singh was the chief executive -- he may still be,
5 I'm not sure, of Global Renewables, the Australian waste
6 processing plant we talked about earlier. And he was the
7 co-shareholder with ECL of the Global Renewables business.

8 Q And did he also seek a restraining order against
9 Charif Kazal?

10 A He runs -- I'm sorry. It's my understanding that
11 there's an alternative court case in Australia for injurious
12 falsehood brought by Mr. Singh and Global Renewables against
13 Mr. Kazal. And in that action, Mr. Kazal, for publishing a
14 website, was found guilty of contempt, yes. Of these same
15 allegations.

16 Q I'd like you to turn to Exhibit 36.

17 Is this a true and correct copy of the civil
18 contempt order against Charif Kazal?

19 A It is, yes.

20 MR. TAYLOR: Lacks foundation, Your Honor.

21 THE COURT: If he knows, he may answer.

22 THE WITNESS: Yes, it is.

23 BY MR. WIENER:

24 Q And did --

25 MR. WIENER: Your Honor, I'd like to move

1 Exhibit 36 into evidence.

2 THE COURT: Any objection?

3 MR. TAYLOR: We would object, Your Honor. He has
4 no personal knowledge of this.

5 THE COURT: The objection is noted, but overruled.

6 (Exhibit 36 received in evidence.)

7 BY MR. WIENER:

8 Q Did the court find that Charif was in civil contempt
9 for making statements that -- about crimes that were
10 committed by stealing from Charif Kazal and Tony Kazal?

11 A Yes.

12 Q Did it find that Charif Kazal was in contempt for
13 making statements that \$180 million were stolen from
14 Charif Kazal and Tony Kazal?

15 A Yes.

16 Q Thank you.

17 Are you confident that Adam Kazal and Charif Kazal
18 will not violate the orders in the future?

19 A No.

20 Q Why is that?

21 A Because they continuously do so. They have contempt
22 for the court of law. They don't accept judgments of
23 courts. They won't listen to anything. They won't listen
24 to the advice or the findings of independent bodies.

25 Q And can you briefly summarize the emotional distress

1 that you've suffered as a result of this?

2 A It's -- I believe, in the rule of law. I believe that
3 commercial disputes are resolved in courts of law. I've had
4 a circumstance for the last ten years where those that
5 sought to dispute a commercial business relationship with me
6 has sought to take the law into their own hands around the
7 world, make outrageous allegations.

8 It doesn't matter how many times I defend myself
9 in court, they won't accept the findings of courts of law,
10 judges, independent forensic examinations of accounts. They
11 won't accept injunctions preventing them from doing
12 outlandish behavior.

13 So it's extraordinarily emotionally difficult for
14 me from a guy who has that basis of foundation in the -- in
15 the -- whilst the law can be an ass and work slowly, it's
16 the law that actually defines us in society. And it's just
17 -- I have a very, very difficult time emotionally coming to
18 grips with the fact that because of jurisdictional issues or
19 what have you, certain behavior can be accorded to people,
20 and they can seemingly get away with it.

21 You know, I lodge -- when the website came out
22 initially, I lodged a defamation case in Australia. That's
23 what you do to deal with your concerns. You don't send
24 people to your home, paid protestors. You don't disrupt
25 people's businesses.

1 As a father, as a business owner, as an employer,
2 I hold to the greatest concern the responsibility I have to
3 those that I most care about: My employees, my wife, my
4 children, my friends, their friends, people entrusted to my
5 care when their kids come to my house. Who does that? It's
6 an outlandish -- I don't know how I can prove an untruth
7 when it's just so absolutely crazy.

8 Even on the surface, this thing, it says I stole
9 \$180 million. But in the evidence you have in front of you,
10 you have the fact that the business that was sold that
11 they're making that claim on, they themselves only offered
12 25 million for. How the hell did I steal anything of value
13 from them? That was done under a validation order of the
14 judge under the court of law for the liquidation of the
15 company.

16 I don't mean to digress, but the emotional stress
17 upon me -- I have to be the strong one for my kids, my wife.
18 You know, it's hard for me to show it in front of you, him,
19 them.

20 They seek to make this distinction that they're
21 all independent, but the website is the Kazalfamilystory,
22 it's not the Adamkazalstory. It doesn't matter how many
23 judgments I get against them, it comes again to great
24 personal, financial, emotional cost to me. But I must stay
25 strong for those that I most care about, for those that are

1 entrusted in my care.

2 But I can tell you, it's -- I honestly -- I
3 honestly hold them responsible for the death of my father
4 recently. He died of myeloblastic leukemia. It came on
5 very sudden, soon after the escalation had occurred. The
6 doctors told me and my family that myeloblastic leukemia in
7 older men, older persons, the contributing factor is stress.

8 MR. TAYLOR: I move to strike most of this as
9 nonresponsive to the question --

10 THE COURT: The objection is overruled.
11 Question, please, counsel.

12 THE WITNESS: I'm sorry, Your Honor.

13 MR. WIENER: Thank you. I don't think I have
14 anything further, Your Honor. Thank you.

15 THE COURT: Cross-examination.

16 MR. TAYLOR: Thank you, Your Honor.

17

18 CROSS-EXAMINATION

19 BY MR. TAYLOR:

20 Q Mr. David, you have a degree in acting from the U.S.C.
21 School of Theatre; isn't that true?

22 A No, I have a degree in theatre from U.S.C.

23 Q A degree of theatre from the U.S.C. school of --

24 A No, I have a degree in theatre from U.S.C.

25 Q I see. So is it fair to say that you're trained in

1 acting?

2 A No, I have a theatre degree, so I did some acting
3 courses, yes. I focused on the business of theatre.

4 Q To this day, you've never met Adam Kazal personally;
5 correct?

6 A No.

7 Q But you know of Charif Kazal and Tony Kazal; right?

8 A I do.

9 Q You testified earlier about a lawsuit in the
10 Cayman Islands that was launched there around June 2010.

11 Do you recall that testimony?

12 A Yes.

13 Q That lawsuit was filed by the -- on behalf of the
14 Kazals; correct?

15 A By K.T.C.

16 Q That's their company; right?

17 A Well, it was at the time. It was Charif, Karl and Tony
18 at the time.

19 Q Right. I'm talking about at the time, 2010.

20 And in that lawsuit, among other things, they
21 sought to undo the votes of the board of directors that had
22 taken place earlier that year with respect to their
23 ownership in Emergent Capital; isn't that right?

24 A No, that lawsuit was -- I'm sorry. That lawsuit was
25 withdrawn.

1 Q Which lawsuit was withdrawn?

2 A The lawsuit in June of 2010. In the Cayman
3 proceedings, the lawsuits were withdrawn both -- the
4 shareholders both signed a winding up agreement. It was
5 placed into a liquidation and provided -- not provided --
6 handed to the nominated joint official liquidators, which
7 was Ernst & Young Cayman Islands; and then it became a
8 liquidation hearing. So it's different, legally different.

9 Q But there was a finding, was there not, by the judge in
10 the Cayman Islands that the ownership interest in ECL had to
11 be restored to KTC?

12 A No. He reversed the conversion of debt to equity. It
13 had the effect of putting back onto the balance sheet a debt
14 to me and reinstalling their percentage.

15 Q Right.

16 A It didn't adjust their number of shares in any way.

17 Q You mentioned earlier during your direct examination
18 testimony that there was an offer on behalf of the Kazals to
19 purchase -- was it Global Renewables?

20 A Global Renewables Limited, yes.

21 Q Purchase Global Renewables Limited for around the same
22 amount as the offer by Iron Bridge; isn't that right?

23 A Yes. To my recollection, there was about four or five
24 offers they made all within a 24-hour window, I think.

25 Q Four or five offers that who made?

1 A KTC.

2 Q And KTC's best offer was actually several million
3 dollars more than Iron Bridge's offer, wasn't it?

4 A To the best of my recollection, in dollar terms, their
5 best offer was half a million more than Iron Bridge Capital,
6 yes.

7 Q You mentioned an individual who was affiliated with the
8 Libyan Investment Fund. I believe it was -- was it
9 Mr. Serrati?

10 A Zotti, I think.

11 Q Have you ever met this individual?

12 A No.

13 Q Have you ever communicated with him?

14 A I don't believe so.

15 Q Did you ever go to Libya for the purpose of seeking
16 funding for your own business ventures?

17 A No. I went to a waste conference there.

18 Q To a what?

19 A A waste conference.

20 Q You testified earlier that you got a call from your
21 wife in 2011 saying that she was at the police station and
22 she had been followed?

23 A Yes.

24 Q You have no specific information about who followed her
25 or who sent that person?

1 A I do.

2 Q But you said earlier that you believed that it may have
3 been associated with Adam Kazal; isn't that true?

4 A No, I said someone engaged or employed by Adam Kazal --
5 not Adam Kazal -- sorry, Tony Kazal.

6 Q But you have no documents or other evidence that proves
7 that, do you?

8 A You might in evidence right now.

9 Q I'm asking what you have.

10 A Well, I have documents not in evidence, but I think you
11 do.

12 Q You also mentioned earlier that there was an ICAC
13 inquiry and you believed that the ICAC inquiry concluded
14 that Mr. Kazal was guilty of various wrongdoings; isn't that
15 right?

16 A Well, it made factual findings.

17 Q But the ICAC inquiry was not a criminal proceeding, was
18 it?

19 A That's not what ICAC is. ICAC is an independent body
20 that investigates corruption between private enterprise and
21 government officials or governmental agencies.

22 Q So they don't reach criminal conclusion, like guilty or
23 innocent; right?

24 A I'm not the ICAC, so you might want to go to their
25 specific charter.

1 Q I'm using the term that you used. Mr. Kazal was never
2 found guilty of any crime, was he?

3 A Your terms. He was found guilty by the ICAC of
4 corruption and perjury.

5 Q Now, there was a 2017 inspector report that you also
6 mentioned earlier which exonerated Mr. Kazal and you said
7 there were some subsequent reports that reversed that
8 report; is that fair to say? Is that correct?

9 A No, that's not correct.

10 Q What am I missing?

11 A The report doesn't exonerate Mr. Kazal.

12 Q What's the subsequent report that you're talking about?

13 A There was, I think, in September of this year, there
14 was an independent report done on the debate that was being
15 had in the media and elsewhere and with certain
16 parliamentarians as to should there be a change to the
17 charter of the ICAC.

18 And so this was an independent review by legal
19 experts, a panel of them, and it went into lengths on
20 debasing the document you're referring to that you put into
21 evidence.

22 Q But that proceeding, whoever conducted it, had nothing
23 to do --

24 A It was not a proceeding, it was a review.

25 Q I'll ask you to let me finish my question. That review

1 or proceeding, or whatever you want to call it, had nothing
2 to do with the allegations of wrongdoing by Mr. Kazal; isn't
3 that true?

4 A I believe it goes into great detail on it.

5 Q But you don't know, do you?

6 A I do. I read it. But I can't -- if it was tendered
7 into evidence --

8 Q Well, it wasn't produced to us, was it?

9 A Well, it's available to anyone online. You can
10 download it.

11 Q Who authored it?

12 A I don't recall it off the top of my head. The
13 Australian Institute of Legal Professions or something of
14 that nature.

15 Q What was your purpose in reading it?

16 A I was reading a review of the ICAC's review by the
17 inspector general.

18 Q So you just take a general interest in ICAC as a body,
19 as a proceeding in general?

20 A I take a -- I take a general interest in things that
21 may have a ramification upon Mr. Kazal and my ongoing legal
22 disputes with him, yes.

23 Q Now, you mentioned that in 2011, you were subpoenaed
24 and you testified before ICAC?

25 A I did.

1 Q And you said that when you were served with the
2 subpoena, that was the first time you learned about this
3 inquiry?

4 A Yes.

5 Q Do you have any understanding of how it is your lawyer
6 would know about an ICAC inquiry and mention it to the
7 lawyer for Mr. Kazal a year beforehand?

8 MR. WIENER: I'm going to object. It calls --

9 THE COURT: I'm sorry, Counsel. I can't hear a
10 word you're saying from where you're sitting.

11 MR. WIENER: I'm going to object. It calls for
12 possibly attorney-client communication.

13 THE COURT: Sustained.

14 BY MR. TAYLOR:

15 Q Well, you are aware, are you not, that your attorney
16 sent a letter to Mr. Kazal's attorney in July 2010
17 referencing the ICAC inquiry before it was a matter of
18 public record?

19 A I don't recall any specific letters. I do definitely
20 recall lots and lots and lots of communication on all sorts
21 of things at that period of time, though.

22 Q So if your lawyer had sent such a letter, he would have
23 done so without your knowledge, is that what you're saying?

24 A Lawyers communicate the way they do. You're making
25 reference to a generic letter that you haven't shown me, so

1 it would help if you would show me.

2 Q Now, it is true that you testified in that ICAC inquiry
3 and was under oath -- the testimony you gave; right?

4 A I was.

5 Q And when was that testimony given?

6 A I think the inquiry was in 2011, so I'm -- to the best
7 of my recollection, I think it was the middle of the year,
8 maybe July.

9 Q And that was while litigation was pending between you
10 and the Kazals; isn't that right?

11 A I don't know specifically as it pertains to the date.
12 I do know -- I mean, Charif may better recall, but the
13 signed agreement for the liquidation may precede it. I just
14 don't recall.

15 Q Over the course of what period did you testify? How
16 many hours and days?

17 A I may have been held over a day. I just don't recall.
18 Maybe two days. I don't actually recall how long.

19 Q Were you involved with any of the Kazal family's
20 dealings with respect to the leases that you referenced
21 earlier?

22 A No, never.

23 Q Do you know how it is that the body conducting this
24 inquiry into leasing would have any idea that you would know
25 anything about it and call you to testify?

1 MR. WIENER: Objection. Calls for speculation.

2 THE COURT: Sustained.

3 BY MR. TAYLOR:

4 Q Did you ever learn how it is that whoever issued that
5 subpoena to you knew to call upon you as a witness?

6 A Yes.

7 Q What did you learn in that regard?

8 A I can only assume. I can't talk for the ICAC. I can
9 only assume because I'm one of the principal characters
10 talked about in the -- in the press releases -- not press
11 releases. Sorry -- articles regarding Andrew Kelly and
12 Charif Kazal, myself. I can only assume that that piqued
13 the interest of the ICAC.

14 Q But you had nothing to do with the allegations that
15 they were looking into?

16 A No, I knew nothing about leases. Never did.

17 Q You mentioned press articles. You're talking about
18 articles that appeared in places like the Sydney Morning
19 Herald?

20 A Yes.

21 Q And it's true, is it not, that you provided information
22 to a reporter at the Sydney Morning Herald as it relates to
23 Mr. Kazal?

24 A It is true that I spoke to journalists at the Sydney
25 Morning Herald, yes.

1 Q And that would be Mr. Besser, the reporter?

2 A Yes.

3 Q And you spoke to him on the phone?

4 A Yes.

5 Q You spoke to him a few times on the phone?

6 A I got a call from him when I was living in Abu Dhabi
7 and my passport was held by the Dubai immigration
8 authorities.

9 Q And you exchanged text messages with Mr. Besser?

10 A I don't recall, but I'm assuming I did.

11 Q And you e-mailed with him?

12 A Possibly.

13 Q In fact, you e-mailed with him over the course of
14 several years into 2013; isn't that true?

15 A Periodically. I remember in '13, I got an e-mail from
16 him letting him know that one of his sources had told him
17 that the Kazals knew where my children went to school here
18 in L.A.

19 Q Did you ever provide any inaccurate or misleading
20 information to Mr. Besser?

21 A I don't believe so, no.

22 Q Did you ever provide any inaccurate or misleading
23 information about Mr. Kazal to any reporter?

24 A No, I don't believe so.

25 Q Did you have communications with any other reporter

1 about Mr. Kazal aside from Mr. Besser?

2 A Probably, yes.

3 Q Because they called you for information; right?

4 A In life when you're involved in items or legal disputes
5 of public interest, journalists do call you.

6 Q And you were more than willing to provide --

7 A I didn't say that. You asked if I'd communicated with
8 journalists. I'm saying, yes, I had.

9 Q And you didn't say to them, "I have no comment." You
10 told them what you wanted to tell them?

11 A No. Many times I instructed them to speak to my
12 lawyers.

13 Q Isn't it true that you provided Mr. Besser with a copy
14 of a photograph of you and Mr. Kelly and Mr. Kazal standing
15 outside, photograph which you had cropped to exclude
16 yourself?

17 A It's true that I provided a photograph of Andrew Kelly
18 and Charif Kazal with me removed from that photograph, yes.

19 Q Why did you remove yourself from the photograph?

20 A Because I didn't want to be in it.

21 THE COURT: Why don't we take our evening recess.

22 Ladies and gentlemen, we will adjourn for the
23 evening. As I indicated to you, because of the national day
24 of mourning, the court will be dark tomorrow.

25 I ask that you all come back 9:00 a.m. sharp on

1 Thursday. We cannot start unless you are all here and so --
2 and it's supposed to rain, I think, on Thursday so you might
3 want to take that into account as well. So do your best to
4 get here on time.

5 As I said, I want to make sure we get as much
6 testimony as possible so we can meet our deadline. If any
7 one of you is late, we can't start.

8 So I will see you all on Thursday, 9:00 a.m.

9 Have a good day off tomorrow from this trial, and
10 we'll see you bright and early on Thursday. Thank you.

11 (Jury out.)

12 THE COURT: Sir, you may step down.

13 All right. So, Mr. Wiener, just a couple things.
14 I just want to get a sense of the run of the show, if you
15 will, for Thursday.

16 MR. WIENER: We're likely to be calling
17 Elizabeth David.

18 THE COURT: Counsel, I have to assume your
19 practice is only in state court, but I'm going to say it
20 again. You have to rise when you address the Court. Those
21 are the rules. Okay?

22 MR. WIENER: And, Your Honor, there's no
23 disrespect --

24 THE COURT: I'm not suggesting there is, I'm just
25 advising you again. These are the rules here.

1 MR. WIENER: I should be able to get it right,
2 it's not difficult.

3 THE COURT: There are some incentives that I can
4 apply, but I'm trying not to.

5 So let's go for the run of the show for Thursday.

6 MR. WIENER: If you sanction me a \$1 each time,
7 just don't do it in front of the jury --

8 THE COURT: This is 2018, Counsel. A dollar is
9 not going to do it.

10 MR. WIENER: So it will be Elizabeth David,
11 Paul Kolesa. I would expect we can present our entire case
12 on Thursday. And Mike Hammond.

13 THE COURT: I'm sorry?

14 MR. WIENER: An individual named Mike Hammond will
15 be coming from Australia. Will likely be in the afternoon.

16 THE COURT: Those three witnesses, that's who you
17 intend for Thursday?

18 MR. WIENER: That's correct. The one
19 accommodation which I'm willing to offer if opposing counsel
20 requires it, I understand that Mr. Kazal is coming from
21 Australia. If he's not able to stay on Monday, I'm
22 certainly willing to swap witnesses out of order if needed.

23 THE COURT: So, Mr. Taylor, you need to talk with
24 your client about that before making that decision.

25 MR. TAYLOR: Yes, I do, Your Honor. But I believe

1 he's scheduled to travel this weekend, so it will be a
2 little difficult to extend it till next week. But can we
3 figure this out tonight and let the Court know first thing
4 on Thursday.

5 THE COURT: Well, you probably need to let counsel
6 know before you let me know. I'm going to be here. It's
7 just -- I'm just letting you know we're not continuing this
8 trial. So if you need to get your witness on, do what you
9 need to do on Thursday to do it.

10 In fairness to Mr. Wiener who is being reasonable
11 here, if you need to tell him: Hey, don't call -- I don't
12 know who -- pick the witness -- Paul Kolesa or whomever who
13 may be local to swap out with Mr. Kazal, then you should do
14 that.

15 MR. TAYLOR: We'll figure it out tonight, and I'll
16 be in touch with counsel in the morning.

17 MR. WIENER: Yeah, please -- let me know tomorrow.
18 I do have to tell Mr. Hammond when to get on a plane.

19 THE COURT: You said Mr. Hammond is coming from
20 Australia?

21 MR. WIENER: Correct.

22 THE COURT: Is he in the states already or --

23 MR. WIENER: He is not. If he leaves on Thursday,
24 he'll be here on Thursday our time. I would like to give
25 him a day -- if you can tell me tonight, that would be

1 fabulous.

2 THE COURT: Why don't we do this. I think you
3 should be able to find out an answer no later than 7:00 p.m.
4 this evening. Let counsel know, so that he can stop the
5 trains from moving for a witness that is flying in from
6 Australia.

7 Does that sound reasonable to you, Mr. Taylor?

8 MR. TAYLOR: That's fine, Your Honor.

9 THE COURT: Mr. Taylor, let Mr. Wiener know by
10 7:00 p.m.

11 And, then, Mr. Taylor, do you anticipate only
12 calling Mr. Kazal on Thursday?

13 MR. TAYLOR: That's another thing we need to talk
14 about because I have two third-party witnesses who I had
15 previously told would probably be on on Thursday before I
16 knew about last night's closure.

17 And then we have transcripts -- a little bit of
18 deposition testimony to read into the record, which we can
19 do to fill in the time there, but probably only Mr. Kazal
20 Thursday because it sounds like Mr. Wiener has to continue
21 with his witnesses, and then I'd have to push mine off to
22 Monday then.

23 THE COURT: Fair enough. I just want to get a
24 sense of where we're going.

25 Just so you all know. Mr. Wiener, you have five

1 hours, 21 minutes and 22 seconds.

2 Mr. Taylor, you have six hours, 43 minutes and
3 21 seconds.

4 All right. Anything further before we adjourn for
5 the evening?

6 MR. WIENER: Your Honor, is there a clock I should
7 be watching up there, in terms of tracking time?

8 THE COURT: Unless you have a mirror that can look
9 at my chest clock, no. So that's why I will always tell you
10 at lunch and at the end of the day where you stand.

11 So what other lawyers who have appeared in this
12 court have done is they've utilized their trusty aide to
13 keep a running clock of how much time they're taking as a
14 guide.

15 But again to be clear, this court, this timer
16 controls. But you can ask counsel to assist you. You now
17 know you have five hours, 21 minutes and 22 seconds.

18 MR. WIENER: Got it.

19 THE COURT: Anything further, Mr. Taylor?

20 MR. TAYLOR: Not from me, Your Honor.

21 THE COURT: I will see you all on Thursday. If
22 you can get here at 8:45, just in case there are any issues
23 we need to discuss before the jury gets here.

24 Thank you. Have a good evening.

25 (Thereupon, at 4:50 p.m., proceedings adjourned.)

-oOo-

CERTIFICATE

I hereby certify that pursuant to Section 753,
Title 28, United States Code, the foregoing is a true and
correct transcript of the stenographically reported
proceedings held in the above-entitled matter and that the
transcript format is in conformance with the regulations of
the Judicial Conference of the United States.

Date: February 13, 2019

/s/ Lisa M. Gonzalez

Lisa M. Gonzalez, U.S. Court Reporter
CSR No. 5920

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